



**STATEMENT OF**  
**THE AMERICAN COUNCIL OF LIFE INSURERS**  
**BEFORE THE**  
**SUBCOMMITTEE ON INSURANCE, HOUSING AND COMMUNITY OPPORTUNITY**  
**OF THE**  
**HOUSE COMMITTEE ON FINANCIAL SERVICES**  
**ON**  
**INSURANCE OVERSIGHT: POLICY IMPLICATIONS FOR U.S. CONSUMERS,**  
**BUSINESSES AND JOBS**

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July 28, 2011

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Statement Made by  
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Chairman Biggert, Ranking Member Gutierrez and members of the Subcommittee, my name is Gary Hughes, and I am Executive Vice President and General Counsel of the American Council of Life Insurers (“ACLI”). ACLI is the principal trade association for U.S. life insurance companies, and its 312 member companies account for 91% of total life insurance company assets, 91% of the life insurance premiums, and 92% of annuity considerations in the United States.

The ACLI appreciates the opportunity to discuss with you a number of issues that are of particular importance to the life insurance business and the policy implications those issues raise. Had this hearing occurred just a few years ago, our focus would have been quite different and would have involved largely domestic matters and our efforts to make U.S.-based insurance regulation operate more efficiently. Today, in addition to implementing those provisions of the Dodd-Frank Act that are relevant to our business, international regulatory issues dominate our agenda, and the attendant practical and competitive implications are indeed significant.

One contextual observation at the outset may help put in proper perspective the importance of these international issues to all life insurance companies. Many people instinctively think these issues are of concern only to life insurers conducting business both domestically as well as internationally. That, however, is not the case. In due time, state insurance regulators as well as the Securities and Exchange Commission and the Financial Accounting Standards Board will have to make critical decisions regarding the extent to which U.S. solvency and accounting standards should be harmonized with global standards. These decisions have the potential to fundamentally alter the prudential regulation of all life insurers, large and small, regardless of whether their business is conducted domestically or internationally.

With this background, I would like to discuss the importance of fully implementing the intent of Congress under the Dodd Frank Act in creating the Federal Insurance Office or FIO. Specifically, I would like to address the critical role the FIO should play in the development and representation of U.S. federal interests on international insurance and competitiveness issues and with respect to important domestic regulatory matters.

Today, the number of domestic and foreign agencies, offices, departments and organizations involved to some degree in the regulation of, or standard setting for, the insurance business is imposing to say the least. I would like to make five observations regarding ACLI's views on U.S. governmental representation of insurance in this increasingly complex global environment.

First, we respect the role of state insurance supervisors as the micro-prudential regulators of insurance in the U.S. We appreciate their coordination with U.S. industry on the development of international standards and their bilateral engagement with specific markets where the resolution of commercial and regulatory issues benefits from their expertise and involvement.

Second, we appreciate the ongoing role the National Association of Insurance Commissioners ("NAIC") in the development of international standards as the association of U.S. prudential regulators. State regulators are, and will remain, a critical part of the U.S. financial services regulatory architecture.

Third, in the area of trade negotiation and trade facilitation, we appreciate the support we receive from the Office of the United States Trade Representative and the U.S. Commerce Department. As a result of USTR efforts, our industry contributes over \$85 billion annually to the services trade balance through premiums we earn in markets which have been opened through U.S. advocacy. We hope this positive record will continue with the swift introduction and passage of the Korea, Colombia and Panama free trade agreements and the timely conclusion of both the Trans Pacific Partnership and the WTO Doha Round.

Fourth, despite the strong support we receive from state regulators and U.S. government negotiators, there continues to be a gap in the representation of U.S. national interest in international insurance and financial services forums. We sincerely hope this gap can be filled by the FIO and other offices within the Treasury Department once those offices are fully staffed and provided with the resources needed to develop U.S. international insurance policy and represent the U.S. on international insurance issues as provided in Dodd Frank.

And fifth, as noted earlier, ACLI's advocacy on insurance regulation has shifted from a largely domestic exercise to a much more global endeavor. For example, in recent weeks ACLI President and CEO Dirk Kempthorne has met with European Commission leaders on insurance supervision, members of the European Parliament, and the leadership of our industry counterpart associations in numerous other countries. And in the weeks ahead, he will be participating in the annual meeting of the International Association of Insurance Supervisors ("IAIS") in South Korea. He will also be visiting Beijing and Tokyo to meet with our local member company managers, the respective U.S. Ambassadors and their staffs, and local government officials. The purpose of these meetings is to discuss the challenges we face in their markets and perhaps more importantly the direction of global regulatory convergence efforts.

In sum, ACLI believes that despite a strong state-based insurance regulatory system in the U.S., there is a pressing and immediate need for the FIO to engage in the representation of U.S. national interests and in so doing fill what is essentially an "international insurance representation gap." The ACLI first identified this representation gap in 2001 when we noted to the Administration and Congress the disconnect between the U.S. and other major trading partners in Western Europe, Japan and South Korea. These countries were reorganizing their financial regulatory services into a single unified Financial Service Authority model combining banking, securities and insurance supervisors into an integrated whole. This change created a definitional inconsistency as these governments engaged the U.S. on financial services regulatory coordination and cooperation initiatives. The scope of their understanding of financial services included all sectors, and the U.S. was continually forced to clarify that under U.S. representation financial services included all sectors except insurance.

While this problem was often overcome on an informal basis by having the Treasury Department coordinate with state insurance officials, this ad hoc approach had its limits, since state officials never had the necessary governmental credentials or clearances to serve as the U.S. counterpart to our major trade partners and allies in efforts to improve global financial stability. In particular, state insurance officials are by and large only tasked with, and provided authority over, micro-prudential supervision, while macro-prudential powers in the U.S. continue to reside at the federal level. This constant disconnect with the national authorities of other major global

markets was highlighted during the recent global financial crisis and was the driving force in the decision by Congress to invest the FIO with its international policymaking portfolio.

We are hopeful that the FIO will eventually be able to fill this gap, but we are concerned that it may not be able to do so in the near term due to a lack of adequate staffing and budget. This element of timing is of particular concern because of impending deadlines associated with the two issues discussed below. If these deadlines are not met by robust and coordinated U.S. state and federal governmental advocacy, the result may be harm to U.S. global competitiveness.

Specifically, I would like to highlight the two issues where we urge the Secretary of the Treasury to provide immediate resources to the FIO and enable its immediate and effective engagement. The first is the effort to develop criteria and a methodology for the designation of globally systemically important financial institutions (“G-SIFIs”). The second is the effort to ensure that the U.S. is determined to be eligible for a deemed equivalency finding under the third country provisions of the European Union’s Solvency II Directive. This later initiative also involves critical transitional measures being considered in the European Council and the European Parliament as part of the Omnibus II package of legislation expected to be voted upon early in 2012.

Regarding G-SIFIs, ACLI has been able to track this initiative through our observer status within the IAIS, which has been tasked by the Financial Stability Board (“FSB”) with the development of applicable criteria and methodologies. We have asked that members of the NAIC provide us with their views on the G-SIFI process and asked for their support in addressing industry concerns about aspects of the initiative we believe are inconsistent with state insurance laws. Unfortunately these individuals have been limited in their ability to communicate with us on the specifics of the G-SIFI process because of admonitions by the IAIS that this is a closed, regulator-only exercise.

While the IAIS has provided a limited opportunity for industry comment, we are concerned by the process the IAIS is using for its fact gathering and determinations. This concern is the result of questions and comments we have received from IAIS staff, who appear to lack the

background in macro-prudential insurance regulatory policy. It also results from the fact that a number of non-U.S. regulators have asserted that there are no G-SIFIs in their home country jurisdictions, thus protecting their domestic insurers from heightened regulation. The intent of these national regulators appears to be the creation of commercial winners and losers. We believe this is contrary to the intent of the G-20 member countries and inconsistent with U.S. government policy. While we have expressed our concerns in this regard to the NAIC and state insurance regulators, we have been advised that they are not in a position to help address these issues.

In light of the above, we see an immediate and essential role for the FIO with respect to the G-SIFI issue. It can act as a strong federal advocate and demand that the focus of the exercise be a balanced outcome that does not harm the competitiveness of U.S. insurance and reinsurance companies. The office can also provide input to, and coordinate with, the rest of the Treasury Department, the Federal Reserve and the SEC. These three agencies are the U.S. voting members to the FSB, which as noted above is the body tasked by the G-20 to coordinate the G-SIFI initiative.

Having FIO work with the broader U.S. FSB delegation is also important in that it would provide us with a clearer understanding of the expectations being placed on the IAIS by the FSB. The IAIS has indicated that it is under intense pressure from the FSB to develop a criteria and methodology for G-SIFI designation by September. This pressure for speed appears to have trumped calls for additional dialogue with industry and academic experts to examine how, if at all, insurers pose a global systemic threat. Haste in this regard is even more problematic given the fact that the life insurance industry and state insurance regulators have raised extremely serious concerns with a proposed IAIS data collection initiative that in our judgment would clearly contravene applicable U.S. state confidentiality laws.

To be clear, ACLI supports the IAIS, and our concerns on some of its work streams are not meant to suggest that IAIS members should abandon their efforts. We do, however, urge members to be realistic in their expectations. The IAIS is the designated forum for discussion of new and innovative ideas, but whatever standards it develops must be evolutionary and not

revolutionary, lest they infringe upon the constitutional processes of the member states and undermine the political legitimacy of the overall effort.

The IAIS is recognized by international organizations as the international standards setter for insurance. For example, the IMF uses IAIS standards as the metric in what are essentially neutral audits of the adequacy of nations' regulatory systems for insurance. These audits have a substantial impact on the way legislators in respective countries approach their efforts to enact insurance-related legislation. It is this well-established IAIS role that requires active participation by the FIO and the broader Treasury Department as well as the Federal Reserve and SEC. These institutions, as the voting U.S. members of the FSB, must coordinate with U.S. micro-prudential state regulators to assure that the U.S. has coherent and effective international insurance policy that represents the U.S. National interest.

The second area where we believe there is a pressing need for immediate FIO engagement is working with the European Commission to ensure that the U.S. is found eligible for a deemed equivalency determination under Solvency II. The trans-Atlantic insurance market is the largest two-way flow of insurance globally, and should the U.S. be deemed as non-equivalent, U.S. insurers would be placed at a significant global competitive disadvantage. Non-equivalency would also carry with it the potential to increase costs, and correspondingly rates, for U.S. insurance consumers.

State insurance regulators have done an admirable job of representing the U.S. in this process to date, but with the passage of Dodd Frank there is a strong expectation by the European Commission and European Member States that the U.S. federal government will take an active role in the equivalency deliberations. The next meeting of the European Commission, the European Insurance and Occupational Pension Authority (the European regulatory association) and U.S. state insurance regulators will be on September 6<sup>th</sup> in Frankfurt. We urge the FIO to participate in this discussion as a full partner and voice the support of the U.S. government for this equivalency determination.

While the global insurance issues discussed above are unquestionably a top priority for the life insurance industry, we would be remiss if we did not reference our top domestic regulatory priority, which is the implementation of those aspects of Dodd-Frank pertaining to life insurance companies. While the attendant policy issues are largely resolved, the outcome of the various rulemaking initiatives will, more than anything else, shape our views on this new law. Among the issues that are of most importance to life insurers are the use of derivatives to hedge portfolio risks, the Volcker Rule, holding company regulation by the Federal Reserve for those insurance enterprises that control a bank or thrift, a harmonized standard of care for broker-dealers and investment advisors, and the Financial Stability Oversight Counsel's process for identifying systemically important financial institutions ("SIFIs") and the regulatory consequences of such a designation.

Our principal concern with respect to each of these issues is that a fair balance be struck between regulatory interests on the one hand and legitimate insurance business practices on the other. Our concern in this regard is heightened by the fact that there has been a tendency throughout the legislative process and into the rulemaking process to view these issues through a bank lens. As we have noted repeatedly, life insurers are quite distinct from banks in terms of their fundamental business model, their financial structure and their regulatory oversight, and a one-size-fits-all approach to rulemaking will not produce workable results. In the absence of a federal insurance regulator and with the FIO not yet fully being funded and staffed, striking this balance has often proved difficult. Going forward, we hope that the FIO can work constructively with the insurance industry and its prudential regulators to better address these types of issues.

We would also like to note that the FIO has a role in the area of reinsurance. We have urged state insurance regulators and the NAIC to coordinate with FIO regarding any determinations on the quality of reinsurer supervision in other countries. Such determinations will be a key to the implementation of reinsurance collateral reform in the U.S. as currently envisioned by state insurance regulators. ACLI believes Congress intended FIO to have a role with respect to reinsurance collateral, and we believe the office should be afforded the resources necessary to support that role.

The Dodd Frank Act empowers the FIO to set U.S. international insurance policy. In addition, it is intended to serve as the focal point within the federal government for information and expertise on the business of insurance. To carry out these roles effectively, it will require human, economic and technical resources. Failure to provide these resources will risk harming U.S. competitiveness domestically and globally, and for this reason we urge that the FIO be fully funded and staffed as expeditiously as possible.

We sincerely appreciate this Subcommittee holding a hearing on matters that are of vital importance to insurance companies, to insurance regulation and to those who rely on our products and services.

United States House of Representatives  
Committee on Financial Services

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Clause 2(g) of rule XI of the Rules of the House of Representatives and the Rules of the Committee on Financial Services require the disclosure of the following information. A copy of this form should be attached to your written testimony.

<b>1. Name:</b>	<b>2. Organization or organizations you are representing:</b>
Gary E. Hughes	American Council of Life Insurers
<b>3. Business Address and telephone number:</b> 	
<b>4. Have <u>you</u> received any Federal grants or contracts (including any subgrants and subcontracts) since October 1, 2008 related to the subject on which you have been invited to testify?</b>	<b>5. Have any of the <u>organizations you are representing</u> received any Federal grants or contracts (including any subgrants and subcontracts) since October 1, 2008 related to the subject on which you have been invited to testify?</b>
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>6. If you answered .yes. to either item 4 or 5, please list the source and amount of each grant or contract, and indicate whether the recipient of such grant was you or the organization(s) you are representing. You may list additional grants or contracts on additional sheets.</b>	
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