

MEMORANDUM

To: Members of the Committee on Financial Services

From: FSC Majority Staff

Date: May 19, 2014 (update to memo dated May 15, 2014)

Subject: May 20, 2014, Housing and Insurance Subcommittee Hearing Entitled “Legislative Proposals to Reform Domestic Insurance Policy”

On Tuesday, May 20, 2014 at 2:00 p.m. in Room 2128 of the Rayburn House Office Building, the Housing and Insurance Subcommittee will hold a hearing entitled “Legislative Proposals to Reform Domestic Insurance Policy.” This hearing will examine five legislative texts addressing domestic insurance issues:

1. H.R. 605, the Insurance Consumer Protection and Solvency Act of 2013
2. H.R. 4557, the Policyholder Protection Act of 2014
3. H.R. __, the Risk Retention Modernization Act of 2014
4. H.R. __, the Insurance Data Protection Act
5. H.R. 4510, the Capital Standards Clarification Act of 2014

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

- Mr. Joe E. Carter, Vice President, Business Development and Marketing, United Educators
- Mr. Gary Hughes, Executive Vice President and General Counsel, American Council of Life Insurers
- Mr. Tom Karol, Federal Affairs Counsel, National Association of Mutual Insurance Companies
- Mr. Joseph C. Kohmann, Chief Financial Officer and Treasurer, Westfield Group, on behalf of the Property Casualty Insurers Association of America
- Professor Daniel Schwarcz, Associate Professor of Law, University of Minnesota Law School

H.R. 605, the Insurance Consumer Protection and Solvency Act of 2013

H.R. 605, the Insurance Consumer Protection and Solvency Act of 2013, introduced by Rep. Bill Posey, makes technical and conforming changes to clarify that state insurance laws govern the liquidation or rehabilitation of an insurance company. The bill would also clarify that insurance companies are exempt from the risk-based assessments that the FDIC is authorized to

impose in connection with the “orderly liquidation” of a failed financial institution under Section 210(o) of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

H.R. 4557, the Policyholder Protection Act of 2014

H.R. 4557, the Policyholder Protection Act of 2014, introduced by Rep. Bill Posey, extends the policyholder protections of the Bank Holding Company Act to bank-affiliated insurance companies organized as thrift holding companies. Under the Bank Holding Company Act, if a failing bank is affiliated with an insurance company through a bank holding company structure, a state insurance regulator can intervene to protect the solvency of the insurance company and its policyholders.

H.R. __, the Risk Retention Modernization Act of 2014

H.R. __, the Risk Retention Modernization Act of 2014, by Rep. Dennis Ross, would expand the authority of risk retention groups, which are a mechanism for self-insurance, to offer commercial lines of insurance, such as property and auto physical damage. The 1986 amendments to the Liability Risk Retention Act authorized risk retention groups to expand their roles by pooling their risk to self-insure their liability risks on a group basis. H.R. __ would allow risk retention groups to create efficiencies by expanding their commercial lines of coverage, rather than seeking additional coverage elsewhere.

H.R. __, the Insurance Data Protection Act

H.R. __, the Insurance Data Protection Act, by Rep. Stivers, would limit the authority of the Federal Insurance Office (FIO) and the Office of Financial Research (OFR) to subpoena data from insurance companies. The bill maintains the authority of the FIO and the OFR to subpoena data from insurance companies; but, (1) must obtain approval from the Secretary of the Treasury, (2) verify that such data is not available through the insurance company’s state regulator, another federal agency, or a public source and (3) agree to reimburse insurance companies for the cost of producing the data. H.R. __ would also require federal entities and state regulators (1) to maintain the confidentiality of nonpublic data obtained from or shared with other federal and state regulators, and (2) comply with the Paperwork Reduction Act.

H.R. 4510, the Capital Standards Clarification Act of 2014

H.R. 4510, the Capital Standards Clarification Act of 2014, by Reps. Gary Miller and Carolyn McCarthy, would clarify the application of capital requirements to insurance companies that are subject to supervision by the Federal Reserve Board.

Pursuant to the Dodd-Frank Act, insurance companies that own savings and loan associations and insurance companies that are designated as “systemically important” by the Financial Stability Oversight Council are subject to supervision by the Federal Reserve Board. Section 171 of the Dodd-Frank Act separately requires that the Federal Reserve Board impose certain minimum leverage and risk-based capital requirements on the companies that it supervises. The Federal Reserve Board has interpreted Section 171 to require the application of

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bank capital rules (the so-called Basel III capital standards) to the insurance companies it supervises.

H.R. 4510 would clarify that, in establishing the minimum leverage and risk-based capital standards under Section 171, the Federal Reserve Board is not required to include the assets and liabilities of companies that are engaged in the business of insurance and are subject to state-based insurance capital requirements or capital requirements imposed by a foreign country that have not been deemed to be inadequate.