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NATIONAL ASSOCIATION OF MUTUAL INSURANCE COMPANIES

Statement

of

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Chairman of the Board

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on behalf of the

National Association of Mutual Insurance Companies

to the

House Financial Services Committee

Subcommittee on Insurance, Housing and Community Opportunity

hearing on

Insurance Oversight: Policy Implications for U.S. Consumers, Businesses and Jobs

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The National Association of Mutual Insurance Companies (NAMIC) is pleased to offer comments to the House Financial Services Committee Subcommittee on Insurance, Housing and Community Opportunity on insurance oversight.

My name is Andrew L. Furgatch - Chairman of the Board and CEO of Magna Carta Companies. Magna Carta Companies was founded in New York City in 1925 as a mutual insurance carrier for the taxicab industry. Throughout the decades, Magna Carta has continuously expanded its product offering and underwriting territory. Today, Magna Carta specializes in underwriting the commercial real estate industry and is one of the largest mutual carriers of commercial business in America.

Founded in 1895, NAMIC is the largest full-service national trade association serving the property/casualty insurance industry. NAMIC members are small farm mutual companies, state and regional insurance companies, and large national writers. Its 1,400 member companies write all lines of property/casualty insurance business and account for 50 percent of the automobile/ homeowners market and 31 percent of the business insurance market.

The Nature of the Property/Casualty Insurance Industry

To begin, it is important to understand that the nature of property/casualty insurance products, the industry's low leverage ratios, its relatively liquid assets, and the lack of concentrations in the marketplace make our industry truly unique within the financial services sector. This uniqueness also makes our business fundamentally different from the other two major components of the insurance business – life insurance and health insurance. The property/casualty insurance industry was not responsible for the recent economic crisis and in fact, the risk that our companies pose to the overall financial system is negligible.

Recent historical evidence supports this claim. Even amid severe financial turmoil, there were no major failures of property/casualty insurers and the industry as a whole greatly outperformed other financial services sectors. Today the industry remains strong, diverse, and vibrant – there are more than 2,700 property/casualty insurers operating in the United States, the majority of which are relatively small. A number of studies over the years, including those conducted by the U.S. Department of Justice, state insurance departments, and respected economists and academics, have consistently concluded that the insurance industry is very competitive under classic economic tests.

Maintaining this robust competition is critical to preserving our industry's ability to provide the foundation of a dynamic economy. Property/casualty insurance is the mechanism that has allowed people to transfer some of the risk of owning property or starting a business and has helped keep the nation's economic engine burning. Artificial suppression of competition through new onerous regulations would not only threaten many of the 533,000 jobs in the industry[1], but it would put additional strain on every other individual and business that requires financial protection from the unknown.

As the subcommittee oversees the implementation of reforms to the regulation of the nation's financial services sector, it is essential to create the optimal structure for all constituents. For the property/casualty insurance industry, these constituents include policyholders, taxpayers, insurance companies, agents, and others affected by the insurance underwriting process. Recognizing the differences in financial services companies and products is essential to preventing "one-size-fits-all" regulation that might conflate property/casualty insurance with banking and unintentionally and unnecessarily damage our industry.

We respectfully urge Congress, and especially this Committee, to carefully monitor the work of federal regulators to ensure that they do not engage in "mission creep" and attempt to regulate outside their legislative mandate. Instead the new regulatory structures should work through the system of state-based insurance regulation, by coordinating and cooperating with state regulators and other functional and prudential regulators.

State Regulation of Property/Casualty Insurance

For over 150 years, property/casualty insurers have been regulated by the states in which they do business. Beginning with the passage of the McCarran-Ferguson Act in 1945, the federal government has officially recognized that the states are the appropriate entities to regulate their own insurance markets. The state-based insurance regulatory system has proven to be adaptable and effective, with rare insolvencies and no taxpayer bailouts. Each state has adopted specific programs and policies tailored to the unique needs of its consumers. State regulators and legislators consider and respond to unique local and regional marketplace conditions, such as risks related to weather, specific economic conditions, medical costs, building codes, and consumer preferences. In addition, state regulators are able to respond and adapt to inconsistencies created by various state contract, tort, and reparation laws.

Much of the reason that the state-based system of regulation has worked is because property/casualty insurance is inherently local in nature. Local accident and theft rates impact pricing. Geographical and demographic differences among states also have a significant impact on property/casualty coverages. Natural disaster perils – hurricanes, earthquakes, etc. – differ significantly from state to state. Additionally, the United States has 54 well-defined jurisdictions, each with its own set of laws and courts. The U.S. system of contract law has deep roots and, with respect to insurance policies, is based on more than a century of policy interpretations by state courts. The tort system, which

[1] According to the Insurance Information Institute. Note that this number does not include many others such as agents and brokers that could be impacted by policy choices. http://www2.iii.org/firm-foundation/contribution-to-the-national-economy/employment.html.

governs many of the types of incidences at the heart of insurance claims – particularly those covered by liability insurance – is also deeply rooted in state case law pertaining to such things as the law of defamation, professional malpractice, premises liability, state corporation law, and products liability. State and local laws determine coverage and other policy terms and reparation laws affect claims.

With the ability to quickly respond to unique local issues, the individual states serve as a laboratory for experimentation and a launch pad for reform. State-based regulators develop expertise on issues particularly relevant to their state. Insurance consumers directly benefit from state regulators' familiarity with the unique circumstances of their state and the development of consumer assistance programs tailored to local needs and concerns. State regulators, whether directly elected or appointed by elected officials, also have a strong incentive to deal fairly and responsibly with consumers.

Today, it is safe to say that solvency regulation by state regulators has served both policyholders and insurers well. Unlike the regulatory arbitrage and regulator shopping in other financial services sectors that occurred during the lead-up to the financial crisis, insurance products and services remain closely regulated. Insurance supervision adheres to the highest standards of oversight and has contributed to the industry remaining healthy even during difficult economic times.

The state insurance regulatory system, however, is not without its shortcomings. State insurance regulation receives justified criticism for overregulation of prices and forms, lack of uniformity, and protracted speed-to-market issues. We continue to work with state legislators and regulators to address outdated, redundant, and conflicting regulatory policies and procedures and to modernize the insurance regulatory system to meet the needs of a 21st century marketplace.

Dodd-Frank Wall Street Reform and Consumer Protection Act

July 21, 2011, marked the one-year anniversary of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) being signed into law. This legislation was created in response to the financial crisis with the stated purpose of preventing future bank bailouts, corporate bankruptcies, and overextensions – generally, the bill's stated intent was to prevent further financial crises.

Early in the debate, lawmakers recognized both that the property/casualty insurance industry played no part in creating the economic crisis and that our industry remained healthy and solvent throughout. There was a widespread understanding that the state-based regulation of insurance had worked while federal oversight of banks and financial services firms had largely failed.

Although not the cause of the financial crisis, the insurance industry is nevertheless directly and specifically impacted by the overhaul of the nation's financial services regulation found in Dodd-Frank. The Act for the first time creates a Federal Insurance

Office (FIO) specifically tasked with studying the insurance industry. However, Dodd-Frank's application to the insurance industry was not limited to the creation of the FIO. The Financial Stability Oversight Council (FSOC), Consumer Financial Protection Bureau (CFPB) and Office of Financial Research (OFR) will also have a profound impact on the future of the insurance industry. As these offices begin their work and issue regulatory rulemakings, Congress should remain focused on preventing any new duplicative federal regulation of an already heavily regulated insurance industry. Dodd-Frank was meant to address legitimate problems on Wall Street but should not in the process create needless problems on Main Street.

Financial Stability Oversight Council and Systemic Risk

Section 111 of Dodd-Frank established FSOC and subsequent sections tasked it with identifying risks to the financial stability of the United States that could arise from the material financial distress of large, interconnected bank holding companies or nonbank financial companies. This authority includes making recommendations concerning the establishment of heightened prudential standards for risk-based capital, leverage, liquidity, contingent capital, resolution plans and credit exposure reports, concentration limits, enhanced public disclosures, and overall risk management of such institutions.

FSOC also has authority to require supervision by the Federal Reserve Board of Governors for nonbank financial companies that may pose a threat to the financial stability of the United States in the event of their material financial distress or failure. Section 113 establishes a number of criteria for FSOC to consider in making a determination as to whether a particular company should be subject to such supervision.. The Council must consider:

- The extent of the leverage of the company;
- The extent and nature of the off-balance-sheet exposures of the company;
- The extent and nature of the transactions and relationships of the company with other significant nonbank financial companies and significant bank holding companies;
- The importance of the company as a source of credit for households, businesses, and State and local governments and as a source of liquidity for the United States financial system;
- The importance of the company as a source of credit for low-income, minority, or underserved communities, and the impact that the failure of such company would have on the availability of credit in such communities;
- The extent to which assets are managed rather than owned by the company, and the extent to which ownership of assets under management is diffuse;
- The nature, scope, size, scale, concentration, interconnectedness, and mix of the activities of the company;
- The degree to which the company is already regulated by 1 or more primary
- financial regulatory agencies;
- The amount and nature of the financial assets of the company; and

- The amount and types of the liabilities of the company, including the degree of reliance on short-term funding.

In making a determination to designate any nonbank financial company as systemically significant and subject to federal consolidated supervision and higher prudential standards, FSOC must consult with the primary financial regulator. In addition, the Council must review and reevaluate any designation on an annual basis.

As it has not been strictly defined, the category of nonbank financial companies ostensibly includes property/casualty insurers. However, the legislative history of Dodd-Frank makes clear that lawmakers generally did not believe that insurers pose a systemic risk. Additionally, many economists agree that the risk the property/casualty industry poses to the overall financial system is negligible. As mentioned above, the industry is highly competitive, well capitalized, and subject to adequate financial and operational regulation. In addition, property/casualty insurers are not as susceptible to the adverse systemic consequences of activities engaged in by banks and other financial institutions that are the principal generators of systemic risk.

In order to understand the relationship between systemic risk and the insurance industry, it is important to understand what is meant by “systemic risk.” Systemic risk is often defined as the probability that the failure of one financial market participant to meet its contractual obligations will cause other participants to default on their obligations, leading to a chain of defaults that spreads throughout the entire financial system, and eventually to the nonfinancial economy generally. Another type of systemic risk results from the possibility that a major external event could produce nearly simultaneous, large, adverse effects on most or all of the financial system (rather than just one or a few institutions) such that the entire economy is adversely affected. In this scenario, the threat to the system is a market-oriented crisis rather than an institution-oriented crisis. That is, the crisis occurs because of a widespread event or trend that occurs throughout the financial system, rather than because of the behavior of a particular institution or industry. Market-oriented crises tend to begin with a large change—usually a decline—in the price of a particular asset; the change then becomes self-sustaining over time.

The global financial crisis that began in 2008 was a market-oriented crisis. The financial system broke down not because of a contagion that radiated from one or a few troubled institutions to a host of otherwise healthy entities. What happened instead is that market participants around the world independently speculated that a particular asset class—housing, in this case—would continue indefinitely to increase in value.

Future crises are likely to arise from similar types of asset bubbles and instances of widespread failure by market participants in evaluating certain types of risk. Therefore, regulation that is intended to curtail systemic risk must be carefully designed to address the kind of market-oriented problems that caused the recent crisis and might potentially lead to future crises. The record shows that property/casualty insurers did not cause the last crisis and it is exceedingly unlikely that property/casualty insurers - either individually or collectively - could cause a financial crisis in the future.

Insurance companies and the consumers they serve could be seriously harmed by inappropriate systemic risk regulation that targets individual insurers. We believe that the application of the statutory "considerations" requires the FSOC to take a holistic rather than a formulaic approach to pursuing designations. A holistic or "deeper dive" would include reviewing an institution's culture, risk management practices, and financial strength. A holistic approach also recognizes that while systemic risk determinations are made on an individual basis, there are characteristics of groups of nonbank financial companies that FSOC should take into account in making decisions about whether a particular nonbank financial company should be designated under Section 113.

There are six primary factors that affect the probability that a financial institution will create or facilitate systemic risk: leverage, liquidity, correlation, concentration, sensitivities, and connectedness. A holistic examination of these factors will demonstrate that there is no basis for regulating property/casualty insurance companies for systemic risk because they do not present such a risk. .

Additionally, unlike lightly regulated financial institutions such as investment banks and hedge funds, most of the obligations of property/casualty insurers are protected by the state-based insurance guaranty fund system. This nationwide system, which is financed by the property/casualty insurers of each state, greatly mitigates the effect of any failing property/casualty insurer by providing claimants assurance that the insurer's obligations will be satisfied on a timely basis.

As it is clear that property/casualty insurers pose no systemic risk to the nation's economy or financial structure, efforts to designate them under Section 113 simply by virtue of their classification as financial service providers ignore the underlying business models and financial structure of the industry. There are many other industries more concentrated and interconnected - such as energy, telecommunications, and transportation - that could pose a more serious threat to the nation's economy in the event of failure, than the diverse and financially stable property/casualty insurance industry.

It is imperative that FSOC consider the property/casualty industry in the context of the larger national and global financial services industry and particular companies in the context of the industry as a whole. The Council must resist the temptation to base decisions on size alone or feel compelled to designate an insurer – or group of insurers – simply for the sake of including a representative of all financial industry sectors. Failure of regulators to make the critical distinctions between property/casualty and other financial market participants could result in substantial anti-competitive consequences and increased prices for important consumer financial products, which ultimately hurts consumers without providing any commensurate benefit in protecting U.S. financial stability.

Federal Insurance Office

NAMIC supports a reformed system of state-based insurance regulation and believes that any federal role in insurance should be without regulatory authority. The FIO was a carefully negotiated office that properly recognizes these objectives and must be implemented within this framework. Illinois Department of Insurance Director Michael McRaith was recently named as the first Director of the FIO. Director McRaith officially took over as head of the new office in June 2011 and we look forward to working with him to achieve the goal of developing an information repository and a source of federal expertise on insurance.

Dodd-Frank created the FIO and authorized it to:

- Monitor all aspects of the insurance industry, including identifying issues or gaps in the regulation of insurers that could contribute to a systemic crisis in the insurance industry or the United States financial system;
- Monitor the extent to which traditionally underserved communities and consumers, and low- and moderate-income persons have access to affordable insurance products regarding all lines of insurance, except health insurance;
- Recommend to the Financial Stability Oversight Council that it designate an insurer, including the affiliates of such insurer, as an entity subject to regulation as a nonbank financial company supervised by the Board of Governors;
- Assist the Secretary in administering the Terrorism Insurance Program established in the Department;
- Coordinate Federal efforts and develop Federal policy on prudential aspects of international insurance matters, including representing the United States, as appropriate, in the International Association of Insurance Supervisors (or a successor entity) and assisting the Secretary in negotiating covered agreements;
- Determine whether State insurance measures are preempted by covered agreements; and
- Consult with the States (including State insurance regulators) regarding insurance matters of national importance and prudential insurance matters of international importance.

Lawmakers were careful to ensure that the FIO would not exercise any regulatory or supervisory control and included protections to prevent the office from becoming a *de facto* regulator. The legislation includes explicit language protecting the state-based regulation of insurance and limiting the authority of the FIO to act in a regulatory capacity. Inclusion of this express language recognizes that it is essential to avoid creating a dual regulatory scenario and was critical to the support of the industry in creating the office. As the FIO begins its work, it is imperative that the Office abide by the statutory prohibition against exercising supervisory and regulatory authority over the insurance industry. Congress and this Committee must exercise careful and consistent oversight to guarantee that the application of the FIO's role remains advisory.

Throughout the legislative process, we worked closely with Congress to address our concerns about the FIO. Among those concerns was the power to make data calls and request document productions. Data calls and document requests are costly and time-consuming endeavors for insurers – particularly small insurers with few employees and modest resources. Currently, insurers regularly submit information to state regulators on all aspects of their operations. Creating an additional reporting layer would have gone against the goal of simplification and coordination. There is a need for information on insurance at the federal level, but collecting this information can be achieved by working through the systems and processes already in place.

For these reasons, the authors of the bill saw fit to require the FIO to coordinate with state regulators prior to conducting data calls and limited the office's ability to request information directly from insurers to situations where it is not available elsewhere. Treasury must maintain these important safeguards in implementing this office.

Finally, as part of the mission of the FIO, the director is required to submit several reports to Congress. Beginning on September 30, 2011, the FIO director must submit two annual reports to the President and to the House Financial Services and Senate Banking Committees. The first report will outline any actions taken by the office regarding the preemption of state insurance laws; the second report will examine the insurance industry and any other information deemed relevant by the FIO director or requested by Congressional committees.

In addition to the annual reports, the FIO director is responsible for conducting a study on how to modernize and improve the system of insurance regulation in the United States. This study is due to be released in January 2012.

We are concerned that the FIO may follow the all too common approach of new federal offices and conclude that it requires more resources and authority to oversee the property/casualty insurance industry. This conclusion would be the first step in growing its power and scope and begin to create increased and duplicative federal regulation. We urge that the Committee resist any attempts for the FIO to engage in mission creep and expand beyond its legislative mandate.

Office of Financial Research

Dodd-Frank also created the OFR within the Department of the Treasury. The OFR is charged with improving the quality of financial data available to policymakers and facilitating analysis of the financial system for agencies such as FSOC that monitor systemic risk. To execute these functions, the OFR has two primary operational centers: a Data Center to standardize, validate, and maintain data to help regulators identify vulnerabilities in the financial system as a whole, and a Research and Analysis Center to conduct, coordinate, and sponsor research aimed at improving regulation of financial firms and markets. Specifically, the OFR is tasked with "standardizing the types and formats of data reported and collected" and "developing tools for risk measurement and monitoring." The OFR will conduct financial analysis in support of FSOC, standardize financial reporting requirements, develop a reference database, prioritize making financial data efficient and secure, and produce regular reports to Congress on threats to the financial system and its key research and findings.

Although the goal of the OFR is to standardize data reporting and risk measurement metrics, it is imperative that it recognize the inherent and significant differences between insurance and other financial services sectors when developing these measurement and monitoring systems. For example, comprehensive state regulatory systems for insurance have been developed including detailed investment laws and conservative accounting standards and procedures to access the risk to the underlying entity. State regulations place limits on the amounts of each type of asset that an insurer may hold, as well as the level of concentration in any single investment. State regulations also require insurers to properly value their assets. Securities must be valued according to the rules of the National Association of Insurance Commissioners' (NAIC) Securities Valuation Office, and other invested assets must be valued according to the rules of the NAIC's Financial Condition (E) Committee. In addition, statutory accounting principles (SAP) include the concept of admitted assets -- assets readily convertible into cash. To the extent that a company's investments exceed specified amount limits or fall below specified quality limits, the assets are considered "nonadmitted" and the company is prohibited from taking credit for them on the Annual Statement's balance sheet.

To the extent the OFR and FSOC wish to determine how best to apply the analytical framework to all nonbank financial companies, we suggest not adopting a one-size-fits-all model for all financial institutions, but instead looking to existing insurance regulatory criteria and benchmarks. There are examples of such tools that are currently utilized by insurance regulators. For instance, the NAIC's risk-based capital regulation establishes a uniform standard for capital adequacy and further provides specified levels of regulatory actions for weakly capitalized insurers. Another example is the Insurance Regulatory Information System utilized by state regulators, which consists of a series of 12 financial ratios for which ranges of normal results have been calculated. The ratios focus on critical financial and business conditions, including capital adequacy, changes in business patterns, underwriting results, reserve inadequacy, and asset liquidity. In addition, the NAIC's Financial Solvency Tools system includes other ratios focusing on profitability, asset quality, investment yield, affiliate investments, reserves, reinsurance, liquidity, cash flows, and leverage. These ratios have been developed with careful consideration of the business of insurance and are based on well understood definitions and reflect the more conservative approach to accounting utilized by insurers pursuant to SAP. These tools provide a clear and accurate picture of an insurer's size, degree of leverage, and liquidity risk.

Early on, we expressed concern that the OFR's activities could potentially conflict with the work of the FIO and state insurance regulators. Although the property/casualty insurance industry will not be a likely focus for systemic risk information gathering, we remain concerned about the potential for duplicative information gathering and collection requirements placed on insurers. The OFR and the FIO must be required to coordinate to acquire any information from publicly available sources to prevent duplication (or even triplication) of efforts. Certain safeguards were written into Dodd-Frank to prevent these conflicts; however, the potential exists for the office to grow beyond its scope as an information clearinghouse for FSOC and Congress.

Consumer Financial Protection Bureau

The creation of a new, independent federal financial consumer protection agency was the centerpiece of the Obama Administration's financial services regulatory reform package released in the summer of 2009. The CFPB was included in Dodd-Frank and is charged with overseeing all consumer protection rulemaking and regulations with regard to consumer financial products and services.

Insurance products are already well regulated at the state level for protecting consumers. Both the administration and Congress recognized this fact and ultimately all lines of insurance were properly excluded from the office. However, as with any new office of this size and scope, it is possible that regulatory overreach could drag insurance back into CFPB jurisdiction.

Although the business of insurance was specifically excluded from the scope of the CFPB, this large new bureaucracy promises to be far-reaching and could impact insurance in many ways. For example, Dodd-Frank transfers oversight of provisions of the Fair Credit Reporting Act and other privacy laws to the CFPB. In addition, the CFPB has created a new consumer complaint database and on March 9, 2011, the CFPB issued a request for comments on the new office's information and complaint collection activities. As part of its activities, CFPB must collect and respond to various complaints regarding financial products and services.

While insurance is excluded from its jurisdiction, and is not specifically mentioned in the request for comments, the acting head of the agency, Elizabeth Warren, has informed the Committee that the CFPB has received insurance related complaints. We are concerned about the agency's inappropriate and unauthorized involvement in insurance-related complaints. We have specifically asked the CFPB to implement procedures that would directly refer such complaints to the appropriate state regulator without retaining information in the federal database. Failure to implement a firewall between insurance and non-insurance complaints would violate the statutory prohibition on involvement in the business of insurance and may require a legislative fix.

The House of Representatives has already demonstrated a commitment to ensuring that the CFPB should be an accountable and transparent agency by passing H.R. 1315, the Consumer Financial Protection Safety and Soundness Improvement Act of 2011. Among other things, the bill establishes a five-member, bipartisan commission to manage the CFPB instead of a single administrator; creates a meaningful review process that takes into consideration how a proposed rule could endanger the safety of financial institutions; and ensures that there is a Senate confirmed chair of the commission before the Bureau exercises any new regulatory authority. We were also encouraged by an amendment offered by Rep. Erik Paulsen that gives power to the nonvoting insurance representatives on FSOC to petition CFPB decisions. In addition, this amendment served to remind the CFPB that insurance was not included in its jurisdiction.

As implementation of Dodd-Frank goes forward Congress must remain vigilant so that the agency does not exceed its mandated authority.

Volcker Rule

Section 619(a) of Dodd-Frank (the "Volker Rule") prohibits banking entities from engaging in proprietary trading and from investing in or sponsoring hedge funds and private equity funds. Further, Dodd-Frank also mandates that FSOC study and make recommendations on implementing the Volcker Rule so as to “appropriately accommodate the business of insurance within an insurance company, subject to regulation in accordance with the relevant insurance company investment laws, while protecting the safety and soundness of any banking entity with which such insurance company is affiliated and of the United States financial system.”

Insurers collect premiums from customers in return for a promise to pay on a potential future claim. Those premium dollars are invested by the insurer to ensure that those future claims are able to be paid. Eliminating the ability to invest these premiums beyond low-yield government securities would create the need to charge higher premiums on policies for consumers. Furthermore, there already exists a strong state-based insurance investment regulatory system, which serves to protect the safety and soundness of those insurance institutions containing a banking entity.

Investment limitations imposed upon property/casualty insurers structured as mutual thrift holding companies would have the unintended consequence of severely restricting investment options, including ones that involve minimal risk. State insurance investment laws impose strict limits on the types of investments that property/casualty insurance companies may utilize from both a qualitative and quantitative standpoint. The general aim of the state insurance investment laws is to protect the safety and soundness of the insurance institution while also protecting the interests of customers by promoting insurer solvency and financial strength.

With these considerations in mind, Congress recognized the importance of appropriately accommodating the business of insurance by providing an exemption from the Volcker Rule for an insurance company acting on behalf of its general account. Therefore, Section 619(d)(1)(F) provides that, notwithstanding the prohibitions of Section 619(a), investing in “securities and other instruments described in subsection (h)(4) by a regulated insurance company directly engaged in the business of insurance for the general account of the company and by any affiliate of such regulated insurance company” is a permitted activity.

Congress realized that application of the Volker Rule to insurance companies would prevent an insurance company from making properly diversified and allocated investments to support their insurance operations and to meet their customers' needs. Insurers investment practices should not be restricted in such a way that they could no longer pursue their long-established basic business models. These core insurer investment practices did not pose a significant risk to the national economy during the recent economic crisis and will not create systemic risk to the economy in the future.

In order to further protect fundamental insurance investment practices, the FSOC study should recommend that the current insurance regulatory system be recognized as proper and effective protection for the safety and soundness of any banking entity within an insurance institution as well as the United States financial system as a whole. By allowing insurers to continue in their normal regulated investment activity from their general account - including engaging in proprietary trading and ownership of interest in securities such as private equity and hedge funds - the FSOC study would comply with legislative intent that clearly meant to preserve this system and exclude the insurance company investment model from application of the Volcker Rule.

The most effective way to appropriately accommodate the business of insurance while also protecting the safety and soundness of a banking entity subsidiary of an insurance company is to recognize the protections afforded by state regulatory insurance laws and ensure that the permitted activity in the Volcker Rule applicable to insurance companies by Section 619(d)(1)(F) of Dodd-Frank is implemented so as not to restrict an insurance company from making investments in compliance with such laws.

Savings and Loan Holding Companies

Under Dodd-Frank, the Federal Reserve assumed regulatory authority over savings and loan holding companies (SLHCs) from the now defunct Office of Thrift Supervision. For many SLHC s, insurance is the dominant economic activity, while banking-related activities may be minimal in the entire holding company structure. There are fundamental and inherent differences between insurance and banking and it is imperative that the regulatory approach not simply graft a bank-centric Bank Holding Company structure onto SLHS.

Understandably, the Fed's regulatory approach to holding companies is bank-centric. Thus it may appear to be more efficient to simply graft its bank holding company regulatory regime onto SLHCs, As the regulatory process moves forward we urge the Committee to ensure that the Federal Reserve works closely with the FIO, state regulators, and industry to ensure that regulatory standards and metrics to reflect the economic reality that insurance dominated SLHCs have different prudential regulatory concerns than BHCs. Specifically, Section 171 of Dodd-Frank (the Collins Amendment) imposes minimum regulatory and maximum leverage requirements on depository institution HCs. However, comparing bank capital and insurance capital for regulatory purposes is like comparing apples to pizza—and the requirements of the Collins Amendment are entirely bank-centric.

In addition, many insurance companies rely on insurance statutory accounting principles, while banking regulators generally require GAAP, and we believe it is appropriate to allow those insurers to continue using SAP, particularly those whose structure (i.e., nonpublic and mutual insurers) does not otherwise require the use of GAAP.

These are just two examples of the many areas in which regulators will need to work closely with insurance regulators to ensure proper functioning of insurance markets and avoid duplicative and conflicting regulation.

International Insurance Agreements on Prudential Measures

NAMIC believes increased coordination and cooperation among international regulatory authorities is desirable, but we question the notion that the current system imposes an inappropriate or undue impediment to participation in U.S. markets by non-U.S. insurers. Movement of capital that is intended for risk or insurance generally flows freely at present. Coordination of reporting or presentation standards to permit review and evaluation help to foster greater regulatory transparency and encourage competition. Present cooperation between the European Union and U.S. provide a sound basis for further collaborative efforts.

As a part of these efforts, U.S. insurance regulators – through the NAIC – participate in the International Association of Insurance Supervisors (IAIS). The IAIS develops international standards for insurance supervision, provides training to its members, and fosters cooperation between insurance regulators, as well as forging dialogue between insurance regulators and regulators in other financial and international sectors. Regulators and staff participate in the work of the IAIS on a variety of issues including international solvency supervision, accounting standards, and reinsurance regulation, among others.

The FIO is empowered to coordinate federal efforts and establish federal policy on prudential aspects of international insurance matters, including representing the United States as appropriate in the IAIS and assisting the Secretary of the Treasury in negotiating International Insurance Agreements on Prudential Measures.

We support enhanced cooperation and coordination among the various global financial services regulatory bodies. However, such cooperation and coordination should not come at the cost of abdication of regulatory authority to foreign jurisdictions or quasi-governmental bodies. Likewise, authority to enter into agreements and bind U.S. insurers and insurance regulators should not depend solely on the discretion of the Secretary of the Treasury.

International agreements affecting insurance must be negotiated in full coordination with state regulators and Congress must not abandon its oversight function and should exercise full consultative authority. Furthermore, these agreements need to be reconciled against the realities of the US insurance market. Significant differences exist between the U.S. regulatory structure and the regulatory scheme in other countries. For instance, most European countries do not regulate the price of insurance products whereas we have common price regulation in the U.S. Also, our tort environment is very different from most other countries; these realities must be considered and reconciled with any international agreement under negotiation.

Conclusion

In the wake of Dodd-Frank, it is important that Congress continue to recognize the health and success of the property/casualty insurance industry. Congress must be vigilant in its oversight of Dodd-Frank implementation to ensure that federal regulators resist the temptation to lump the property/casualty industry into a single "financial services" basket and feel compelled to designate insurers as systemically significant simply for the sake of including representatives of all sectors of the financial services industry. Lawmakers appropriately recognized that the insurance industry does not pose systemic risk to the economy, and we urge Congress to carefully monitor the work of federal regulators to ensure that the industry is not inappropriately swept into the Dodd-Frank regulatory framework.

The Committee must also remain ever vigilant regarding the impact of international standard-setting organizations and intergovernmental bodies on U.S. insurance regulation. State-based insurance legislators and regulators should determine insurance standards, not federal agencies or international bodies. The costs of multiple regulations that could result from overlapping, duplicative, or conflicting standards could harm the marketplace for consumers and industry alike. We urge the Committee to work with state legislators and regulators, industry, the FIO, and trade negotiators to protect and preserve the state-based regulatory system that has served our nation's insurance consumers well for decades.