

MEMORANDUM

To: Members of the Committee on Financial Services

From: FSC Majority Staff

Date: October 19, 2017

Subject: October 24, 2017, Housing and Insurance Subcommittee Hearing Entitled “The Federal Government’s Role in the Insurance Industry”

On Tuesday, October 24, 2017, at 10:00 a.m. in Room 2128 of the Rayburn House Office Building, the Housing and Insurance Subcommittee will hold a hearing entitled “The Federal Government’s Role in the Insurance Industry.” This hearing will examine both the domestic and international roles of the Federal Insurance Office (FIO), and Congressional oversight of international insurance issues.

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

- Mr. Paul Ehlert, President, Germania Insurance
- Mr. Rick Means, President and CEO, Shelter Insurance Companies
- Mr. Daniel Schwarcz, Professor of Law, University of Minnesota Law School
- Ms. Katharine Wade, Commissioner, Connecticut Insurance Department, on behalf of the National Association of Insurance Commissioners (NAIC)

Background

For nearly 150 years, the states have regulated the business of insurance. Congress has periodically reviewed the effectiveness of state-based insurance regulation, and Congress and the states have worked to ensure greater regulatory uniformity within this system. In 1945, Congress passed the McCarran-Ferguson Act (15 U.S.C. §§ 1011 *et seq.*), which confirmed the states’ regulatory authority over insurance except where a federal law expressly provides otherwise.

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Pub. L. No. 111–203) expanded the federal government’s role in the insurance industry and created the Federal Insurance Office (FIO) at the U.S. Department of the Treasury, specifically tasked with insurance matters. The FIO director represents the United States in discussions that contemplate the establishment of international insurance

standards and advises the U.S. Trade Representative during trade negotiations, in addition to other domestically-focused duties to examine and report on a variety of matters impacting the domestic insurance sector.

The Financial Stability Oversight Council (FSOC), a 15-member inter-agency entity charged with identifying risks to U.S. financial stability, includes three individuals with expertise in the insurance industry.¹ The Dodd-Frank Act also grants the Federal Reserve Board of Governors regulatory authority over nonbank financial institutions, such as U.S.-domiciled insurers, that the FSOC may designate as systemically important.

Coordination of State and Federal Regulators

The Dodd-Frank Act did preserve the states' general authority to regulate insurance and to resolve failed insurance firms, and requires that FIO consult with state regulators on insurance matters. The coordination of state and federal regulators has become increasingly important, particularly given the federal government's growing role in insurance regulation and ongoing discussions at the International Association of Insurance Supervisors (IAIS). The IAIS is an international insurance standard-setting body whose mission is to establish "standards, principles, and guidance papers" and to provide training for insurance regulators.

Federal Insurance Office

FIO has the authority to monitor all aspects of the insurance industry; to monitor the extent to which traditionally underserved communities and consumers and low- and moderate-income persons have access to affordable insurance products; and to recommend to FSOC that it designate an insurer as a SIFI. FIO also has the authority to receive and collect data and information on and from the insurance industry and insurers; to enter into information-sharing agreements; and to issue reports regarding all lines of insurance with the exception of health insurance. FIO advises FSOC on insurance matters, assists the Secretary of the Treasury with the administration of the Terrorism Risk Insurance Program, and establishes the board of directors for and supervises NARAB II, a national licensing system for insurance agents and brokers.

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