

[DISCUSSION DRAFT]

113TH CONGRESS
2D SESSION

H. R. _____

To clarify the responsibilities and treatment of data by the Federal Insurance Office of the Department of the Treasury.

IN THE HOUSE OF REPRESENTATIVES

Mr. STIVERS introduced the following bill; which was referred to the Committee on _____

A BILL

To clarify the responsibilities and treatment of data by the Federal Insurance Office of the Department of the Treasury.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Insurance Data Pro-
5 tection Act of 2014”.

6 **SEC. 2. FEDERAL INSURANCE OFFICE SUBPOENA AND EN-**
7 **FORCEMENT AUTHORITY.**

8 Section 313(e)(6) of title 31, United States Code, is
9 amended—

1 (1) by striking “The Director” and inserting
2 the following:

3 “(A) IN GENERAL.—The Director”; and

4 (2) by adding at the end the following:

5 “(B) ADDITIONAL REQUIREMENTS.—Not-
6 withstanding subparagraph (A), the Director
7 shall only have the power to require by sub-
8 poena the production of the data or information
9 requested under paragraph (2) if—

10 “(i) with respect to such data or in-
11 formation, the Director complies with all
12 requirements under section 181 of the
13 Dodd-Frank Wall Street Reform and Con-
14 sumer Protection Act, to the same extent
15 as is required by a regulator collecting
16 data or information described under such
17 section; and

18 “(ii) the Secretary of the Treasury—

19 “(I) approves the subpoena;

20 “(II) verifies that such data or
21 information is not available in a time-
22 ly manner from a Federal agency,
23 State insurance regulator, other regu-
24 latory agency, or a publicly available

1 source, as described under subsection
2 (a) of such section 181; and

3 “(III) agrees to provide reim-
4 bursement for the cost of producing
5 the data or information, in an amount
6 calculated in the same manner, to the
7 extent practicable, as that prescribed
8 for reimbursing financial institutions
9 under section 219.3(b) of title 12 of
10 the Code of Federal Regulations and
11 Appendix A to such section 219.3 (re-
12 lating to Reimbursement Schedule).

13 “(C) NOTICE BY SECRETARY.—Each time
14 the Secretary of the Treasury makes the ap-
15 proval, certification, and agreement described
16 under subparagraph (B)(ii), the Secretary shall
17 promptly issue a notice in writing that such ap-
18 proval, certification, and agreement have been
19 made to—

20 “(i) the Director;

21 “(ii) the insurer or affiliate from
22 which the data or information is to be re-
23 quired;

24 “(iii) the State insurance regulator of
25 the insurer or affiliate;

1 “(iv) the Committee on Financial
2 Services of the House of Representatives;
3 and

4 “(v) the Committee on Banking,
5 Housing, and Urban Affairs and the Com-
6 mittee on Finance of the Senate.”.

7 **SEC. 3. CONFIDENTIALITY BY FEDERAL INSURANCE OF-**
8 **FICE.**

9 Paragraph (5) of section 313(e) of title 31, United
10 States Code, is amended—

11 (1) in subparagraph (A), by inserting after “Of-
12 fice” the following: “and the sharing of any nonpub-
13 licly available data with or by the Office among
14 other Federal agencies, the State insurance regu-
15 lators and their collective agents, or any other enti-
16 ties”;

17 (2) in subparagraph (C)(ii), by inserting “any
18 privilege referred to in subparagraph (A) and” after
19 “including”; and

20 (3) in subparagraph (D), by inserting “includ-
21 ing the exceptions thereunder,” after “United States
22 Code,”.

1 **SEC. 4. LIMITATION ON SUBPOENAS BY THE OFFICE OF FI-**
2 **NANCIAL RESEARCH.**

3 (a) LIMITATION ON INSURANCE COMPANY SUB-
4 POENAS.—Section 153(f)(1) of the Dodd-Frank Wall
5 Street Reform and Consumer Protection Act (12 U.S.C.
6 5343(f)(1)) is amended by inserting after “financial com-
7 pany,” the following: “other than an insurance company
8 (as defined under section 201(a)(13)),”.

9 (b) ADDITIONAL REQUIREMENTS.—Section 153(f) of
10 the Dodd-Frank Wall Street Reform and Consumer Pro-
11 tection Act(12 U.S.C. 5343(f)) is amended by adding at
12 the end the following:

13 “(4) ADDITIONAL REQUIREMENTS.—Notwith-
14 standing paragraph (1), the Director shall only have
15 the power to require by subpoena the production of
16 the data requested under subsection (a)(1) and sec-
17 tion 154(b)(1) if—

18 “(A) with respect to such data, the Direc-
19 tor complies with all requirements under section
20 181 of the Dodd-Frank Wall Street Reform and
21 Consumer Protection Act, to the same extent as
22 is required by a regulator collecting data or in-
23 formation described under such section; and

24 “(B) the Secretary of the Treasury—

25 “(i) approves the subpoena;

26 “(ii) verifies that—

1 “(I) such data is not available in
2 a timely manner from a Federal agen-
3 cy, State insurance regulator, other
4 regulatory agency, or a publicly avail-
5 able source, as described under sub-
6 section (a) of such section 181; and

7 “(II) such data is not currently
8 the subject of a subpoena issued by
9 the Federal Insurance Office; and

10 “(iii) agrees to provide reimbursement
11 for the cost of producing the data, in an
12 amount calculated in the same manner, to
13 the extent practicable, as that prescribed
14 for reimbursing financial institutions under
15 section 219.3(b) of title 12 of the Code of
16 Federal Regulations and Appendix A to
17 such section 219.3 (relating to Reimburse-
18 ment Schedule).

19 “(5) NOTICE BY SECRETARY.—Each time the
20 Secretary of the Treasury makes the approval, cer-
21 tification, and agreement described under paragraph
22 (4)(B), the Secretary shall promptly issue a notice
23 in writing that such approval, certification, and
24 agreement have been made to—

25 “(A) the Director;

1 “(B) the financial company from which the
2 data is to be required;

3 “(C) the State regulator of the financial
4 company;

5 “(D) the Committee on Financial Services
6 of the House of Representatives; and

7 “(E) the Committee on Banking, Housing,
8 and Urban Affairs and the Committee on Fi-
9 nance of the Senate.”.

10 **SEC. 5. CONFIDENTIALITY BY FINANCIAL REGULATORS.**

11 (a) IN GENERAL.—Title I of the Dodd-Frank Wall
12 Street Reform and Consumer Protection Act (12 U.S.C.
13 5311 et seq.) is amended by inserting at the end the fol-
14 lowing:

15 **“Subtitle D—Treatment of Data**
16 **Collected From Insurance Com-**
17 **panies**

18 **“SEC. 181. TREATMENT OF DATA COLLECTED FROM INSUR-**
19 **ANCE COMPANIES BY FINANCIAL REGU-**
20 **LATORS.**

21 “(a) ADVANCE COORDINATION.—Before collecting
22 any data or information from a nonbank financial com-
23 pany that is an insurance company pursuant to this title
24 or title II, a financial regulator shall coordinate with each
25 relevant Federal agency and State insurance regulator and

1 any publicly available sources to determine if the informa-
2 tion to be collected is available from, and may be obtained
3 in a timely manner by, such Federal agency or State in-
4 surance regulator, individually or collectively, other regu-
5 latory agency, or publicly available sources. If the financial
6 regulator determines that such data or information is
7 available, and may be obtained in a timely manner, from
8 such an agency, regulator, regulatory agency, or source,
9 the financial regulator shall obtain the data or information
10 from such agency, regulator, regulatory agency, or source.
11 If the financial regulator determines that such data or in-
12 formation is not so available, the financial regulator may
13 collect such data or information from an insurance com-
14 pany only if the financial regulator complies with the re-
15 quirements of subchapter I of chapter 35 of title 44,
16 United States Code (relating to Federal information pol-
17 icy; commonly known as the Paperwork Reduction Act),
18 in collecting such data or information. Notwithstanding
19 any other provision of law, each such relevant Federal
20 agency and State insurance regulator or other Federal or
21 State regulatory agency is authorized to provide to the fi-
22 nancial regulator such data or information.

23 “(b) CONFIDENTIALITY.—

24 “(1) RETENTION OF PRIVILEGE.—The sharing
25 by a nonbank financial company that is an insurance

1 company of any nonpublicly available data and infor-
2 mation with a financial regulator under this title or
3 title II shall not constitute a waiver of, or otherwise
4 affect, any privilege arising under Federal or State
5 law (including the rules of any Federal or State
6 court) to which the data or information is otherwise
7 subject.

8 “(2) CONTINUED APPLICATION OF PRIOR CON-
9 FIDENTIALITY AGREEMENTS.—Any requirement
10 under Federal or State law to the extent otherwise
11 applicable, or any requirement pursuant to a written
12 agreement in effect between the original source of
13 any nonpublicly available data or information and
14 the source of such data or information to the finan-
15 cial regulator, regarding the privacy or confiden-
16 tiality of any data or information in the possession
17 of the source to a financial regulator, shall continue
18 to apply to such data or information after the data
19 or information has been provided pursuant to this
20 subsection to the financial regulator.

21 “(3) INFORMATION-SHARING AGREEMENT.—
22 Any data or information obtained by a financial reg-
23 ulator may be made available to State insurance reg-
24 ulators, individually or collectively, through an infor-
25 mation-sharing agreement that—

1 “(A) shall comply with applicable Federal
2 law; and

3 “(B) shall not constitute a waiver of, or
4 otherwise affect, any privilege under Federal or
5 State law (including any privilege referred to in
6 paragraph (1) and the rules of any Federal or
7 State court) to which the data or information is
8 otherwise subject.

9 “(4) AGENCY DISCLOSURE REQUIREMENTS.—
10 Section 552 of title 5, United States Code, including
11 the exceptions thereunder, shall apply to any data or
12 information submitted to a financial regulator by a
13 nonbank financial company that is an insurance
14 company.

15 “(c) DEFINITIONS.—For purposes of this section:

16 “(1) FINANCIAL REGULATOR.—The term ‘fi-
17 nancial regulator’ means the Commission, the Com-
18 modity Futures Trading Commission, the Council,
19 the Federal banking agencies, and the Office of Fi-
20 nancial Research.

21 “(2) INSURANCE COMPANY.—The term ‘insur-
22 ance company’ has the meaning given such term
23 under section 201(a)(13).”.

1 (b) TECHNICAL AMENDMENT.—The table of contents
2 for such Act is amended by inserting after the item relat-
3 ing to section 176 the following:

“Subtitle D—Treatment of data collected from insurance companies

“Sec. 181. Treatment of Data Collected From Insurance Companies by
Financial Regulators.”.

4 **SEC. 6. SHARING OF INFORMATION BETWEEN THE FED-**
5 **ERAL INSURANCE OFFICE AND THE OFFICE**
6 **OF FINANCIAL RESEARCH.**

7 (a) FEDERAL INSURANCE OFFICE.—Section 331 of
8 title 31, United States Code, is amended by adding at the
9 end the following:

10 “(t) SHARING OF INFORMATION WITH THE OFFICE
11 OF FINANCIAL RESEARCH.—The Director shall share all
12 information of the Office with the Office of Financial Re-
13 search.”.

14 (b) OFFICE OF FINANCIAL RESEARCH.—Section 153
15 of the Dodd-Frank Wall Street Reform and Consumer
16 Protection Act (12 U.S.C. 5343) is amended by adding
17 at the end the following:

18 “(g) SHARING OF INSURANCE INFORMATION WITH
19 THE FEDERAL INSURANCE OFFICE.—The Director shall
20 share all information of the Office related to the insurance
21 industry with the Federal Insurance Office.”.