

Testimony of
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Before the
Subcommittee on Housing and Insurance
Committee on Financial Services
United States House of Representatives

Regarding:
The Federal Government's Role in the Insurance Industry

Thank you Chairman Duffy, Ranking Member Cleaver, and members of the subcommittee. My name is Katharine Wade. I serve as insurance commissioner for the state of Connecticut and as chair of the National Association of Insurance Commissioners' International Relations Committee. I greatly appreciate the opportunity to testify today regarding the appropriate role for the Federal Insurance Office and additional oversight of the federal government's engagement in international insurance issues as well as the NAIC's support for two sensible legislative proposals introduced by Chairman Duffy and Congressman Heck. Chairman Duffy, we appreciate your support for state based insurance regulation and your leadership in working in a bipartisan manner with Congressman Heck on these bills.

The International Insurance Standards Act (H.R. 3762)

The NAIC strongly supports the International Insurance Standards Act of 2017 sponsored by Chairman Duffy and Congressman Heck. The U.S. insurance market is the largest and most competitive in the world. More than 5900 insurers write \$2 trillion in premium and employ more than 2.2 million people. State insurance regulators supervise more than a third of all global premium, and taken individually, U.S. states make up 26 of the world's 50 largest insurance markets.

As U.S. state insurance regulators who cooperate closely with non-U.S. jurisdictions on a regular basis, we have long been committed to providing leadership on a wide range of global insurance issues and activities, with a focus on ensuring policyholder protections and maintaining stable and competitive insurance markets. The NAIC remains extensively engaged at the international level to ensure our national state-based system has a prominent voice in the development and implementation of global insurance regulatory principles and standards. As we work with our international counterparts, our objectives are to ensure such standards are adaptable to our markets, and to educate them about our state-based system, including how it functions to protect consumers and evolves by building on its strong track record. While we value the perspective of our international colleagues and have adapted some of their best practices for our own use through the years, we must not allow international discussions to drive changes to our domestic regulatory framework that could potentially disadvantage U.S. policyholders and insurers as well as undermine the strength and stability of our system.

As part of efforts to engage globally, we are committed to working with our federal colleagues, the Federal Reserve and the United States Treasury Department's Federal Insurance Office (FIO), to ensure U.S. interests are appropriately represented. However, it is important to understand their authorities in the insurance sector are more limited than those of the states, which are the primary regulators of the insurance sector. The Federal Reserve regulates depository institution holding companies with insurance operations as well as any insurers designated by the Financial Stability Oversight Council. Importantly, only one U.S. firm that meets the current definition of an Internationally Active Insurance Group (IAIG) is supervised

by the Federal Reserve. In the same vein, FIO has no regulatory or supervisory authorities, but we recognize the Treasury Department has an interest in financial stability and the health of our national economy. Therefore, while it is critically important we all work together internationally as part of “Team USA,” we must do so with the appropriate recognition of our respective domestic authorities.

While there has been a noticeable and welcome improvement in the relationship and coordination with FIO, this has not always been the case. For the last six years, FIO’s involvement in international regulatory standard setting has made it more difficult for U.S. regulators to defend the state-based system and influence the process despite substantial involvement at the International Association of Insurance Supervisors (IAIS). The standards developed by the IAIS continue to reflect a largely European approach to supervision and certain fundamental aspects would not be compatible with the U.S. system despite FIO previously holding several key leadership positions. Furthermore, FIO is not a regulator and does not represent insurance regulators, so its significant involvement in regulatory standard setting up until recently led to a disconnect between our domestic regulatory direction and the international agenda. Similarly, while the Federal Reserve has recently been more measured regarding the nature and substance of its involvement, it has had an outsized role in international regulatory standard-setting discussion, particularly in light of its limited insurance regulatory role in the United States.

Moreover, despite significant efforts to work with federal agencies on international matters, we have historically been disappointed in the lack of depth in the interactions as well as their refusal to include us in international insurance discussions in forums other than the IAIS. In recent years, state regulators have either not been included in critical meetings or relegated to an observer role. For example, the Treasury Department, the Federal Reserve Board and the Securities and Exchange Commission (SEC) are members of the Financial Stability Board (FSB). The FSB has had several discussions regarding insurance matters and drives work streams for the IAIS, yet state regulators have been largely excluded from such deliberations. In recent years, the Treasury’s Strategic and Economic Dialogue (S&ED) with China and its successor, the U.S-China Comprehensive Economic Dialogue, as well as the Financial Markets Regulatory Dialogue (FMRD) have not included state regulators, even though our regulatory counterparts from those jurisdictions were included, and in the past state regulators had a role in those meetings.

Given our past experience, we believe it is appropriate for Congress to provide additional oversight of the federal government’s engagement on international insurance issues. The International Insurance Standards Act of 2017 does exactly that and addresses many of our longstanding concerns. It requires federal government representatives to include state insurance regulators in any international insurance discussions including those at the FSB relating to

insurance. It sets forth formal mechanisms for Congress to conduct oversight and assess the potential impacts of major international insurance agreements on U.S. insurance interests. Importantly, this legislation ensures that when the Federal Reserve and FIO engage internationally on insurance matters, they defend the United States system of insurance regulation, deferring to the judgments of Congress, state legislatures, governors, and U.S. insurance regulators to determine the appropriate regulatory requirements for the U.S. insurance sector.

The legislation addresses several of our concerns with the negotiation and review process for covered agreements. A few weeks ago, the U.S. and EU formally signed the Bilateral Agreement between the United States and the European Union on Prudential Measures Regarding Insurance and Reinsurance. In conjunction with that agreement, the Treasury and the Office of the United States Trade Representative (USTR) provided a statement of U.S. policy clarifying their interpretation of the covered agreement in key areas like capital, group supervision, reinsurance and the Joint Committee. We worked closely with Treasury and USTR on these clarifications and appreciate their affirmation of the primacy of state regulation. In the months ahead, NAIC members will assess the impact of the covered agreement on state regulation consistent with our open and transparent process, and consider any changes to insurance regulation that may be necessary.

Though we are generally satisfied with the result and it isn't clear future covered agreements will be necessary since the agreement with the EU was the product of fairly unique circumstances, there are several improvements contained within the International Insurance Standards Act that would ensure a smoother process and perhaps better outcomes for the U.S. going forward. First, the legislation requires state insurance regulators be included in any negotiations of a covered agreement. Unfortunately, during the negotiation of the recently signed agreement, only a few regulators were permitted to participate and they could not share information and obtain reactions from the other states until after the agreement was finalized and announced. This made the evaluative process opaque to many of the regulators impacted by it and limited the ability to achieve buy-in from states prior to the conclusion of the negotiations. Second, consistent with its provisions regarding international standard setting, the act prohibits the use of a covered agreement for new prudential regulatory requirements. This ensures the U.S. federal government does not use a covered agreement to import new requirements that are in conflict with the current U.S. regulatory regime. Third, the legislation provides for additional transparency by allowing additional access to negotiating texts, including classified materials for congressional committees, staff with security clearances and International Trade Advisory Committees to the USTR. In this regard, one improvement worth considering is adding more formal mechanisms for stakeholder comment such as requiring the publication of any agreement and the solicitation of comments in the federal register. The current agreement was published in the federal register and the Treasury and USTR convened stakeholder meetings on their own accord, but

incorporating such processes into the legislation would guarantee such protocols were followed going forward. Finally, the legislation provides a mechanism for Congress to vote for any proposed agreement. It is odd to require similar approval for other international agreements, but not this one, and for foreign jurisdictions to require the approval by their own legislative bodies, but for the U.S. not to do so.

The Federal Insurance Office Reform Act (H.R. 3861)

The NAIC supports the bipartisan Federal Insurance Office Reform Act. Just as the International Insurance Standards Act increases oversight of FIO's international engagement, it is equally important to ensure FIO's structure and authorities are appropriately tailored to those areas where it can provide the most value. To be clear, the NAIC believes insurance expertise within the Treasury Department or elsewhere within the federal government is necessary given the importance of insurance to our economy. However, a standalone office operating under the imprimatur of its own authorizing statute is not. The roles for which FIO could provide some value (e.g., providing federal insurance expertise, overseeing the Terrorism Risk Insurance Program, coordinating federal agencies as it relates to insurance) can be filled by the Treasury Department without a stand-alone office or agency – indeed, many of these functions were addressed by the Treasury Department before FIO's creation. Some have argued FIO's existence puts pressure on the states to make necessary regulatory improvements. The Treasury Department has a long history of serving as a bully pulpit on regulatory policy without a FIO, but more to the point, the regulatory enhancements that have been made throughout the past nine years were put in place to respond to changes in the insurance market, emerging risks, the evolving impact of technology, and consumer expectations, not because of FIO's presence.

Nevertheless, the bipartisan Federal Insurance Office Reform Act is a step in the right direction, and makes appropriate reforms to the office to ensure it does not stray from its core policy advisory function within the Treasury Department. First, the legislation focuses FIO on international engagement, but makes it clear the office speaks for the Treasury Department and not the states. While, as described above, FIO's involvement internationally has historically complicated our own international engagement in international insurance standard-setting forums such as the IAIS, the Treasury Department clearly has a role to play internationally, particularly as it relates to economic matters. By making clear that FIO represents the Treasury Department and is responsible for coordinating federal agencies' international insurance policymaking, the legislation provides clear lines of demarcation and definition to the role of FIO internationally and domestically. Second, the legislation makes clear that when it comes to engagement internationally, FIO must consult and reach consensus with state insurance regulators, which is critically important in international insurance regulatory standard-setting matters where it is most appropriate to defer to the states as the primary regulators of the sector. Finally, housing FIO where it would most reasonably belong, within the Office of International Affairs, will keep it more focused on its core international mission. Limiting its size ensures the office is refocused

on its highest and best use, as a policy office within the Treasury Department and a voice for the federal government on international matters.

The legislation places limits on FIO's information gathering authority. As a general matter, the industry should not be subject to duplicative or burdensome information requests. The NAIC houses the largest insurance database in the world to make certain regulatory functions more efficient and cost-effective for states and therefore consumers. Indeed, the International Monetary Fund referred to the NAIC and state regulators' data analysis capability as "world leading" during the 2010 Financial Sector Assessment Program (FSAP). Importantly, every state insurance department, supported by the NAIC, has comprehensive powers and tools to collect information both from insurers and their affiliates, and we respond to requests for information from federal agencies on a frequent basis. We remain committed to providing the Treasury Department any information they require to carry out their functions. While we continue to believe a standalone FIO is unnecessary, we see this legislation as a positive step towards refocusing the office to areas where it can provide the most value to the federal government and tailoring its size to fit those needs.

State Regulator Vote on FSOC

In addition to these two proposals, we hope the members of the committee will consider providing state insurance regulators a vote on the Financial Stability Oversight Council (FSOC) in a manner consistent with the requirements of the appointments clause of the U.S. Constitution. State insurance regulators are the regulators of the insurance sector, yet are the only primary functional regulators without a vote. State insurance regulators have the necessary expertise and information regarding the sector to inform FSOC's risk monitoring work and help identify any systemic risks that impact the insurance sector. Further, state insurance regulators are the only members of the Council that can commit to take regulatory action across the insurance sector in response to calls for a coordinated approach to address any risks the Council may identify or other relevant regulatory concerns that may arise.¹ A state insurance regulator vote on the Council will only benefit the Council and its important work monitoring the financial stability of the United States.

¹ As previously stated, the Federal Reserve has limited regulatory authority within the insurance sector as they only regulate FSOC designated firms and Depository Institution Holding Companies with insurance operations. Neither the Independent Member with Insurance Expertise nor the Federal Insurance Office has any regulatory authorities over the insurance sector.

Conclusion

In conclusion, the NAIC strongly supports these legislative proposals. They encourage cooperation, clarify the respective roles of FIO, the Federal Reserve, and state insurance regulators, and promote oversight, transparency and inclusion. These improvements will solidify and clarify relationships at home while advancing the interests of the United States in defending our regulatory system, our companies and our citizens abroad.

Thank you for the opportunity to testify today. I look forward to your questions.