



# Financial Services Coordinating Council

*Representing America's Diversified Financial Services Community*

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## **Principles for Federal Insurance Regulation**

The Financial Services Coordinating Council was formed by the four principal trade associations representing the major financial sectors of the U.S. economy to address issues of common concern at both the federal and state levels.

Its members are the American Bankers Insurance Association/American Bankers Association, American Council of Life Insurers, American Insurance Association, and Securities Industry Association. These organizations represent thousands of large and small banks, insurance companies, agencies and agents, and securities firms that, taken together, provide financial services to virtually every household in America.

Given the national and international market for insurance products, the time has come to provide a federal option for the chartering and regulation of insurance firms. The lack of regulatory uniformity, coordination and responsiveness in the state-based insurance regulatory system is unnecessarily costly and burdensome and has resulted in negative competitive implications for insurance companies, insurance agencies, and their customers. The securities and banking industries have long been subject to regulation by the Federal government, which is designed to protect the interests of consumers, regardless of where a product is sold or where the consumer resides. The federal chartering and regulation of insurance firms would extend uniform regulation to all areas of insurance, particularly with respect to products, producers, solvency, and market conduct protections to consumers.

Optional federal chartering and regulation should be based upon the following principles:

### The Federal Charter

- *National Treatment* --- Insurers must have the option of obtaining a single charter that would allow them to do business in all jurisdictions.
- *Universal* --- The federal charter must accommodate all lines of insurance and must be equally available to all insurers, regardless of corporate form (stock, mutual or fraternal) or size, and must provide for the federal

chartering or licensing of insurance producers (agents and brokers) and insurance agencies.

- *Convertible* --- Insurers must have an unqualified right to convert both from a state to a federal charter and from a federal charter to a state charter, and a holding company must be permitted to control both a federally chartered and a state chartered insurer.
- *Specialized* --- The federal charter must take into account the inherent differences among different lines of insurance – life, health and property-casualty.
- *Dynamic* --- The federal charter must permit federal insurers to respond quickly to changes in the market place, consumer demands and technology.

### The Federal Regulator

- *Single Regulator* --- The federal insurance regulatory authority should be a discrete bureau within the Treasury Department headed by an individual appointed by the President and confirmed by the Senate for a fixed term (on a par with the OCC and OTS).

### Federal Regulation and Supervision

- *Financial/Solvency Regulation* --- A federal insurer must be subject to strong solvency regulation and supervision (e.g., capital and reserve levels, investments and accounting).
- *Regulation of Insurance and Forms* --- Federal law should establish an expeditious process for addressing policy forms, which encourages innovation and does not delay the development and marketing of new products. Federal law should rely upon competitive market forces to establish premium rates, rather than government price controls.
- *The Costs of Regulation* --- Federal insurers and producers, not taxpayers, should be responsible for the ongoing costs of federal supervision and regulation.

## Consumer Protections

- *Market Conduct Standards* --- Federal insurers and producers must be subject to strong market conduct regulation and supervision.
- *Guarantee* --- Federal insurers and their customers must enjoy the same high level of protection in the event of an insolvency as state chartered insurers and their customers, and the existing insurance guaranty mechanisms must remain in place and accommodate the participation of federal insurers.
- *Antitrust* --- While exclusions from federal anti-trust laws provided by the McCarran-Ferguson Act should not apply to federally chartered insurers, limited safe harbors should be provided for legitimate joint activities.
- *Special Needs* --- Federal insurers should participate in state programs designed to meet the insurance needs of consumers who cannot obtain insurance. Federal insurers also should be free but not required to continue existing investment programs benefiting low and moderate income communities.

## Relationship to State Regulation

- *Optional* --- The federal charter must be optional since the availability of a viable state insurance regulatory system is integral to the dual chartering concept.
- *Exclusive Regulation* --- A federal insurer or producer must be regulated exclusively by the federal insurance regulator in all areas defined by statute as being within the jurisdiction of the federal regulator. Conversely, state chartered insurers and producers must be regulated exclusively by state regulators.
- *Taxes* --- Federally chartered insurers must remain subject to the authority of the states to impose premium or corporate income taxes. Choice of charter should not affect the overall state and federal corporate or policyholder tax burdens of individual insurers.

- *Fair Treatment* --- States must be prohibited from discriminating against federal insurers and producers.