



“Simplifying Regulation for Agents and Brokers...”

November 20, 2007

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The Honorable Henry Paulson
Office of the Secretary
U.S. Department of Treasury
1500 Pennsylvania Ave., NW
Washington, DC 20020

RE: TREAS-DO-2007-0018
via www.regulations.gov

Dear Secretary Paulson:

Agents for Change is a grassroots association of insurance agents and brokers. Our members, located nationwide, sell life, property & casualty, and health insurance.

On behalf of our 5,000 members we appreciate this opportunity to offer our views regarding the regulatory structure associated with financial institutions.

2.2 Insurance

2.2.1 What are the costs and benefits of State-based regulation of the insurance industry?

The current insurance regulatory structure is not equipped to handle today’s increasingly complex and sophisticated insurance marketplace. The state patchwork quilt of regulation has not kept up. Moreover, it cannot keep up due to the globalization of the business, and this critical shortcoming has a very real and detrimental impact on insurance producers and consumers – and the insurance marketplace as a whole.

Although some risks and insurance markets remain local or state-based, in general, insurance has become a national and international marketplace in which risks are widely spread and losses widely felt. Rather than encouraging increased availability and improving the affordability of insurance to cover such risks, the state regulatory system does just the opposite by artificially making each state an individual marketplace, thereby constraining the ability of producers and carriers to compete. This in turn reduces the availability and affordability of coverage. Specifically with respect to insurance agents and brokers, the burdens imposed by the state regulatory structure are time consuming and costly. Despite improvements since the

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enactment of the Gramm-Leach-Bliley Act in 1999, most states retain a variety of individual requirements for licensing, and they all differ with respect to fees, fingerprinting and certifications, among other requirements. And two of the largest states in terms of insurance premiums written, Florida and California, have not enacted legislation designed to meet GLBA's NARAB reciprocity threshold.

These states, in large part, are disinclined to license as a non-resident a producer whose home state (they believe) has "inferior" licensing standards to their own, even a state with similar or identical statutory language. Thus, they are not reciprocal because they do not trust their fellow states to sufficiently regulate producers. States use similar rationale for duplicative regulatory requirements throughout the system. This strikes us as indefensible – regulators defending the system of state regulation of insurance while essentially admitting that consumers in some states benefit from stronger oversight than others.

The inefficiencies and inconsistencies that remain in producer licensing affect every insurer, every producer and every insurance consumer, and are particularly costly – in time and money – for producers that do business (and must be licensed) in multiple states. Many insurance brokerages continue to hold hundreds of resident and non-resident licenses across the country – and some have thousands. And this is not a "once and done" deal – state licenses, by and large, must be renewed annually throughout the year, based upon the individual requirements in each state, and there are continuing regulatory requirements and post-licensure oversight that must be attended to, as well. As you can imagine, this requires significant monetary and human resources from each and every producer.

2.2.2 What are the key Federal interests for establishing a presence or greater involvement in insurance regulation? What regulatory structure would best achieve these goals/interests?

There are both economic and policy reasons for the federal government to establish a comprehensive presence in insurance regulation.

Economic: The federal government has a dual economic interest in insurance: (1) the government has an interest in the efficient operation of the marketplace to encourage market activity, innovation and so forth; (2) at the same time, insurance is uniquely necessary to the operation of the economy, so the government has an interest in making sure that consumers are able to secure the insurance coverage they need at affordable prices. Federal regulation of insurance does not guarantee insurance availability and affordability, but creating an efficient regulatory system that removes the waste from the system is good for the industry, consumers and the economy as a whole.

Policy: Because the regulation of insurance is based at the state level, the federal government currently has little insurance knowledge or expertise. This is a huge detriment in a number of areas including: (1) policy discussions on issues such as taxes, particularly in connection with life insurance and annuities; (2) international trade; and (3) major coverage issues such as terrorism risk and natural catastrophe risks. The involvement of a federal entity with the expertise and authority to provide leadership on these issues would be extremely beneficial to insurance consumers, producers, and industry alike.

A final reason for federal involvement is that the state structure is not equipped to handle the current complex national and international marketplace. The pace of financial services

convergence and globalization are far outstripping the pace of reform efforts by state regulators and legislatures. Competition and efficiency in the insurance industry lags behind other financial services sectors due to the regulatory inefficiencies and inconsistencies in the state insurance regulatory system, inefficiencies and inconsistencies that must be addressed if the insurance sector is going to be able to keep up with the pace of change in the rapidly-evolving global marketplace and thereby expand the insurance marketplace for the benefit of consumers, producers, and insurers. In short, it is not that the states are not trying to adapt, but it is the fact that the state-by-state structure simply does not work for producers and consumers that are national players.

For these reasons, we support the current proposals (H.R. 3200 and S. 40) for an OFC for producers and insurers as the best structure for insurance going forward. An OFC regime would give insurers and producers the choice between a single federal regulator and multiple state regulators. It would not dismantle the state system; rather it would complement the state system with the addition of a federal partner. It is likely that many insurers and producers – particularly those who operate in a single state or perhaps a small number of states – would choose to remain state-licensed. Producers who are selling (or want to sell) in more than a handful of states, on the other hand, would very likely opt for a federal charter, thereby relieving themselves of the burden of compliance and the costs associated with 56 different regulatory regimes.

2.2.3 Should the States continue to have a role (or the sole role) in insurance regulation? Insurance regulation is already somewhat bifurcated between retail and wholesale companies (e.g., surplus lines carriers). Does the current structure work? How could that structure be improved?

The states should continue to have a role and would have a significant role under an OFC.

The current system does not work for producers that are national or even regional players. They are subject to numerous overlapping, redundant and sometimes conflicting state requirements that hinder their ability to compete and serve their customers. To be frank, the so-called bifurcation between retail and wholesale is actually a splintering of regulation – among the 56 U.S. jurisdictions for life, health, property, casualty, etc.; between the federal government and the states on health issues, terrorism, natural catastrophe; and between regulation and no regulation (or limited regulation) in the case of admitted lines and surplus lines. Carriers and producers currently must maneuver through that minefield to do business. For those of us who choose it, federal regulation would be much simpler.

2.2.4 States have taken an active role in some aspects of the insurance marketplace (e.g., workers' compensation and residual markets for hard to place risks) for various policy reasons. Are these policy reasons still valid? Are these necessarily met through State (as opposed to federal) regulation?

The desirability of regulatory involvement in the insurance markets (workers' compensation, residual markets, rate and form approval, etc.) varies depending upon the issue and upon the health of the marketplace. And arguments can be made on all sides. Having said that, however, a federal insurance regulator would be in no less a position to regulate such issues than a state regulator. There is no special quality to state regulation that makes it better suited to oversight of such issues. Indeed, to the extent a federal regulator is created, it would be better suited to creating regulatory approaches and

protections that apply nationwide without regard to a consumer's location, something the states have not been able to accomplish.

Again, we appreciate this opportunity to formally respond to your review of the regulatory structure associated with financial institutions. Please do not hesitate to contact Peter Ludgin who serves as the executive director of Agents for Change at 202-589-1929 or peter@agents4change.net if you have any questions or if we can be of any assistance.

Sincerely,



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Chairman



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