AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

EXAMINING PROPOSALS ON INSURANCE REGULATORY REFORM

HEARING

BEFORE THE

SUBCOMMITTEE ON CAPITAL MARKETS, INSURANCE, AND GOVERNMENT SPONSORED ENTERPRISES

OF THE

COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

APRIL 16, 2008

Printed for the use of the Committee on Financial Services

Serial No. 110–107

U.S. GOVERNMENT PRINTING OFFICE

42–719 PDF WASHINGTON : 2008

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

HOUSE COMMITTEE ON FINANCIAL SERVICES

BARNEY FRANK, Massachusetts, *Chairman*

PAUL E. KANJORSKI, Pennsylvania
MAXINE WATERS, California
CAROLYN B. MALONEY, New York
LUIS V. GUTIERREZ, Illinois
NYDIA M. VELÁZQUEZ, New York
MELVIN L. WATT, North Carolina
GARY L. ACKERMAN, New York
BRAD SHERMAN, California
GREGORY W. MEEKS, New York
DENNIS MOORE, Kansas
MICHAEL E. CAPUANO, Massachusetts
RUBÉN HINOJOSA, Texas
WM. LACY CLAY, Missouri
CAROLYN McCARTHY, New York
JOE BACA, California
STEPHEN F. LYNCH, Massachusetts
BRAD MILLER, North Carolina
DAVID SCOTT, Georgia
AL GREEN, Texas
EMANUEL CLEAVER, Missouri
MELISSA L. BEAN, Illinois
GWEN MOORE, Wisconsin,
LINCOLN DAVIS, Tennessee
PAUL W. HODES, New Hampshire
KEITH ELLISON, Minnesota
RON KLEIN, Florida
TIM MAHONEY, Florida
CHARLES A. WILSON, Ohio
ED PERLMUTTER, Colorado
CHRISTOPHER S. MURPHY, Connecticut
JOE DONNELLY, Indiana
ROBERT WEXLER, Florida
JIM MARSHALL, Georgia
DAN BOREN, Oklahoma

SPENCER BACHUS, Alabama
DEBORAH PRYCE, Ohio
MICHAEL N. CASTLE, Delaware
PETER T. KING, New York
EDWARD R. ROYCE, California
FRANK D. LUCAS, Oklahoma
RON PAUL, Texas
STEVEN C. LATOURETTE, Ohio
DONALD A. MANZULLO, Illinois
WALTER B. JONES, JR., North Carolina
JUDY BIGGERT, Illinois
CHRISTOPHER SHAYS, Connecticut
GARY G. MILLER, California
SHELLEY MOORE CAPITO, West Virginia
TOM FEENEY, Florida
JEB HENSARLING, Texas
SCOTT GARRETT, New Jersey
GINNY BROWN-WAITE, Florida
J. GRESHAM BARRETT, South Carolina
JIM GERLACH, Pennsylvania
STEVAN PEARCE, New Mexico
RANDY NEUGEBAUER, Texas
TOM PRICE, Georgia
GEOFF DAVIS, Kentucky
PATRICK T. McHENRY, North Carolina
JOHN CAMPBELL, California
ADAM PUTNAM, Florida
MICHELE BACHMANN, Minnesota
PETER J. ROSKAM, Illinois
KENNY MARCHANT, Texas
THADDEUS G. McCOTTER, Michigan
KEVIN McCARTHY, California
DEAN HELLER, Nevada

JEANNE M. ROSLANOWICK, *Staff Director and Chief Counsel*

SUBCOMMITTEE ON CAPITAL MARKETS, INSURANCE, AND GOVERNMENT SPONSORED ENTERPRISES

PAUL E. KANJORSKI, Pennsylvania, *Chairman*

GARY L. ACKERMAN, New York
BRAD SHERMAN, California
GREGORY W. MEEKS, New York
DENNIS MOORE, Kansas
MICHAEL E. CAPUANO, Massachusetts
RUBÉN HINOJOSA, Texas
CAROLYN McCARTHY, New York
JOE BACA, California
STEPHEN F. LYNCH, Massachusetts
BRAD MILLER, North Carolina
DAVID SCOTT, Georgia
NYDIA M. VELÁZQUEZ, New York
MELISSA L. BEAN, Illinois
GWEN MOORE, Wisconsin,
LINCOLN DAVIS, Tennessee
PAUL W. HODES, New Hampshire
RON KLEIN, Florida
TIM MAHONEY, Florida
ED PERLMUTTER, Colorado
CHRISTOPHER S. MURPHY, Connecticut
JOE DONNELLY, Indiana
ROBERT WEXLER, Florida
JIM MARSHALL, Georgia
DAN BOREN, Oklahoma

DEBORAH PRYCE, Ohio
JEB HENSARLING, Texas
CHRISTOPHER SHAYS, Connecticut
MICHAEL N. CASTLE, Delaware
PETER T. KING, New York
FRANK D. LUCAS, Oklahoma
DONALD A. MANZULLO, Illinois
EDWARD R. ROYCE, California
SHELLEY MOORE CAPITO, West Virginia
ADAM PUTNAM, Florida
J. GRESHAM BARRETT, South Carolina
GINNY BROWN-WAITE, Florida
TOM FEENEY, Florida
SCOTT GARRETT, New Jersey
JIM GERLACH, Pennsylvania
TOM PRICE, Georgia
GEOFF DAVIS, Kentucky
JOHN CAMPBELL, California
MICHELE BACHMANN, Minnesota
PETER J. ROSKAM, Illinois
KENNY MARCHANT, Texas
THADDEUS G. McCOTTER, Michigan

CONTENTS

	Page
Hearing held on:	
April 16, 2008	1
Appendix:	
April 16, 2008	45

WITNESSES

WEDNESDAY, APRIL 16, 2008

Arricale, Frances, Executive Director, Interstate Insurance Product Regulation Commission	31
Dinallo, Hon. Eric, Superintendent, Department of Insurance, State of New York, on behalf of the National Association of Insurance Commissioners (NAIC)	13
Minkler, Thomas J., CIC, President, Clark-Mortenson Agency, Inc., on behalf of the Independent Insurance Agents and Brokers of America	29
Mirel, Lawrence H., Partner, Wiley Rein LLP, on behalf of the Self-Insurance Institute of America (SIIA)	25
Nason, Hon. David G., Assistant Secretary for Financial Institutions, U.S. Department of the Treasury	10
Pile, Donna, CIC, CPIW, CPIA, Managing Partner, A.G. Perry Insurance Agency, on behalf of the National Association of Professional Insurance Agents (PIA)	33
Shore, Alastair, Senior Vice President and Chief Underwriter, CUNA Mutual Group, on behalf of the American Council of Life Insurers and the American Insurance Association	27

APPENDIX

Prepared statements:	
Kanjorski, Hon. Paul E.	46
Bachus, Hon. Spencer	48
Arricale, Frances	50
Dinallo, Hon. Eric	69
Minkler, Thomas J.	86
Mirel, Lawrence H.	98
Nason, Hon. David G.	106
Pile, Donna	110
Shore, Alastair	114

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Kanjorski, Hon. Paul E.:	
Statement of Eric D. Gerst, Esq.	124
Statement of the National Association of Mutual Insurance Companies	136
NIPR PowerPoint presentation for PIA	146

EXAMINING PROPOSALS ON INSURANCE REGULATORY REFORM

Wednesday, April 16, 2008

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CAPITAL MARKETS,
INSURANCE, AND GOVERNMENT
SPONSORED ENTERPRISES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 3:36 p.m., in room 2128, Rayburn House Office Building, Hon. Paul E. Kanjorski [chairman of the subcommittee] presiding.

Members present: Representatives Kanjorski, Ackerman, Meeks, Moore of Kansas, McCarthy, Scott, Bean, Murphy; Pryce, Hensarling, Manzullo, Royce, Barrett, Price, and Davis.

Chairman KANJORSKI. This hearing of the Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises will come to order. Without objection, all members' opening statements will be made a part of the record.

Good afternoon, and I apologize for the delay in getting this hearing started today, but unfortunately intervening business on the Floor required us to be away. We meet today to examine proposals on insurance regulatory reform. Today's hearing is the third in our subcommittee's series on these matters. I would like to thank Ranking Member Pryce for again joining me in inviting today's witnesses.

At our hearings last fall, we heard about the need for reform from key participants of the insurance industry, consumer groups, regulators, and legislators. Today we will consider specific proposals to solve some of the problems that we learned about at those prior hearings. I firmly believe that the Congress should take some action on insurance regulation.

Our first panel today features a spokesperson of the State regulators and a representative of the would-be Federal regulator of insurance.

Superintendent Eric Dinallo will discuss the most recent plans of the National Association of Insurance Commissioners for modernizing insurance regulation. Assistant Secretary David Nason will review the insurance reform proposals contained in the Treasury Department's "Blueprint for a Modernized Financial Regulatory Structure."

This Blueprint is an important discussion document for us to consider. It makes a number of short-term and long-term recommendations, some of which I like, and some of which concern

me. The Blueprint's ideas on changing insurance regulation, however, merit our careful consideration. I am especially pleased that the Treasury Department recommends the creation of an Office of Insurance Oversight—an idea that I have discussed for a number of years and incorporated into the Financial Services Committee's oversight plan for the 110th Congress.

Shortly after September 11th, it became very clear to me that the Federal Government lacks the expertise it needs on insurance policy. Our experiences after Hurricane Katrina and the ongoing problems in the bond insurance marketplace have only reinforced my views.

Moreover, a simple online search of the term "insurance" using the Legislative Information System yields 87 bills introduced in this Congress and referred to the Financial Services Committee. Regardless of whether or not the Federal Government directly regulates insurance, we must educate ourselves on insurance policy and build a knowledge base in the Federal Government on these matters.

Therefore, tomorrow, I will introduce legislation to establish an Office of Insurance Information within the Treasury Department. This legislation builds on my ideas and includes the functions envisioned in the Blueprint for this office. I look forward to a substantive debate on this proposal in the weeks ahead.

On today's second panel, each witness will discuss one option for insurance regulatory reform, its merits, and what problems the solution seeks to solve. As part of the ground rules for today's proceedings, I have asked everyone to refrain from criticizing another proposal in his or her written and oral testimony.

The reasons for this request are two-fold. First, insurance is a complicated issue. Direct testimony about one proposal at a time should help us to understand each of them better. Second, I do not view these reforms as mutually exclusive of one another. We will likely work cooperatively on many of them moving forward. For example, we could ultimately consider my legislation on forming an Office of Insurance Information in conjunction with a bill to streamline agent and broker licensing.

As we proceed today, the members of the Capital Markets Subcommittee should remain open to considering all reform ideas. The status quo on insurance regulation, however, no longer works. We live in an increasingly global marketplace and insurance policy must keep pace. We have lost many manufacturing jobs overseas, and we must ensure that jobs in the insurance industry do not suffer a similar fate.

We must move swiftly, but we also need to be smart about it. We will need the help of the experts from the States, and I urge those here today to work cooperatively with us.

I would like to recognize the ranking member, Ms. Pryce, for 5 minutes for her opening statement.

Ms. PRYCE. Thank you, Mr. Chairman. I won't take all the time. This is the third hearing that we have held in this Congress focusing on insurance regulatory reform. The previous hearings in October focused on the need for reform. I am pleased that today we have moved on to discussing concrete ideas for actual reform, and, in particular, I would like to welcome the Treasury Department;

their recently released Blueprint for a Modernized Financial Regulatory Structure is a bold departure from the piecemeal approach at regulatory reform that we have come to depend on.

While I don't necessarily endorse every policy recommendation included in the Blueprint, it provides a clear starting place for our discussions and it will facilitate a broader debate as we move forward. I share the chairman's interest in exploring the Treasury's recommendation that Congress create an Office of Insurance Oversight within Treasury to lead America's international insurance interests.

One of the most salient arguments for an optional Federal charter could be the disadvantage the current State structure presents for the United States in the global insurance marketplace. The world has changed very much since World War II, but over the same period, the Federal Government has left our insurance regulations largely untouched. Now, in many respects, that has worked well in some lines in some places. But, European competitors are moving to regional and global standards for insurance oversight and the Federal oversight office would at least give us one national voice.

While I am not convinced that replacing 50 regulatory bureaucracies with 51 will necessarily accomplish this, I do think we need an open airing of all proposals.

And, on our second panel, I look forward to hearing from our witnesses today. The efforts of myself and Congressman Moore—we are working towards strengthening and expanding the Liability Risk Retention Act. Risk retention groups often act as the insurer of last resort for unique or hard-to-insure risks. They were first used by Congress to ease the crisis and product liability reform, and later to meet needs for medical malpractice insurance. Today, they are used by doctors, universities, and even public housing authorities to provide liability insurance where it is either unavailable or unaffordable.

So, H.R. 5792, which was introduced yesterday, closes some of the loopholes identified by the GAO and the NAIC improving corporate government standards and general disclosures, while expanding the Act to allow risk purchasing groups to procure commercial property insurance with their members. With commercial property insurance becoming increasingly expensive, consumers would be benefitted if risk retention groups could be expanded to provide additional coverage for their needs. This is just one of many reform proposals that we will hear about today, and I look forward to all our witnesses' testimony.

Thank you, Mr. Chairman.

Chairman KANJORSKI. Thank you, Ms. Pryce.

And now, we will hear from the gentleman from New York, Mr. Ackerman, for 3 minutes.

Mr. ACKERMAN. Thank you very much, Mr. Chairman.

There seems to be general agreement that insurance regulation, which is principally tasked to State governments, is in need of reform. Insurance products have undoubtedly evolved since many State insurance laws were enacted, and, insurance regulation in some cases needs to catch up with the industry.

And, while I understand the burden that comes with having 50 different sets of regulations, some of which are outdated, I am not certain that an optional Federal charter is the most responsible solution, either for insurers or consumers.

Accordingly, I am pleased that the subcommittee has taken this issue up, and I want to thank the chairman for his leadership. If the recent troubles in the housing sector have taught us any lesson, it is that we probably don't know as much as we think we do about how our markets work and what the proper regulatory environment should be. In the same way that a diversified portfolio acts as a shield against loss, I wonder if the diversity of regulatory systems among the States might not have a similar effect on the insurance market.

I look forward to hearing from all of our expert witnesses this afternoon, and I am particularly pleased to once again welcome New York State Superintendent of Insurance Eric Dinallo to our witness stand. Mr. Dinallo has proven to be an articulate voice since he was sworn in as Superintendent of Insurance in New York last year, and he is here today representing the National Association of Insurance Commissioners.

I welcome him as well as Secretary Nason. I thank you, Mr. Chairman, for scheduling this hearing and I yield back the balance of my time.

Chairman KANJORSKI. Thank you, Mr. Ackerman.

We will now hear from our good friend from California, Mr. Royce, for 3 minutes.

Mr. ROYCE. Thank you very much, Mr. Chairman. And I would like also to thank you not just for your continued leadership on regulatory reform for insurance, but for your comments today, that tomorrow you will be introducing this legislation for an Office of Insurance Information, because I think such a concept really would solve many of the problems experienced throughout the sector.

I think it especially would address some of the global competitiveness issues that a lot of us are worried about. Certainly, from my view, it would be a step closer to establishing the concept of an optional Federal charter for insurance, which would provide a much needed regulatory alternative to what has become a very tangled, bureaucratic web of State-based insurance regulators.

I would like to share with you also, Mr. Chairman, that this is the third hearing on insurance regulatory reform that we have had in the past 6 months or so and with each of those hearings, I believe, we seem to gain a better and better understanding of this very complex, yet very vital industry, as well as the difficulties resulting from the regulatory structure currently overseeing this industry.

And, I would like to commend Assistant Secretary Nason for his work on the Treasury Department's Blueprint for a Modernized Financial Regulatory Structure. As that Blueprint notes, we have a regulatory structure that very closely resembles the models which existed in the 1930's—4 generations ago—and overseeing the financial services sector that has evolved greatly since then really demands some action on our part.

The time has come to begin the debate on the best way to restructure our regulatory model, and I really want to commend the

Treasury for taking this vital step. As I pointed out in my op-ed in the Wall Street Journal today, nowhere is redundant and anti-competitive regulation more apparent than in the 51 regulators currently overseeing our Nation's insurance industry.

Price controls and bureaucratic delays are rampant at the State level. They punish American consumers. They also punish our industry and frankly the cost of this, as the nonprofit American Consumer's Institute recently found, the net cost to the consumers themselves of the excessive overlapping duplicative regulation that we struggle under is $13.7 billion annually, and that is in the form of higher premiums that our constituents have to bear as a result of these lack of economies of scale as a result of not having a national market.

Above and beyond the tangled bureaucratic web controlling the U.S. marketplace, events which have occurred over the past few years have highlighted the limited insurance expertise at the Federal level. Whether it is in response to a financial shock, like what we have seen in the municipal bond insurance sector or responding to a national crisis or formulating tax policy or negotiating free trade agreements, where we are trying to open up markets overseas for our industry, there is no formal representation for insurance carriers or their holders currently within the Federal Government.

The National Insurance Act, which I have co-authored with Congresswoman Melissa Bean, would establish an optional Federal charter for insurance, thereby creating an effective alternative to the State-based system, and establishing a world class regulator better equipped to represent America's insured and insurers in Washington and throughout the world.

And again, I would like to thank you, Mr. Chairman, for holding this series of hearings, which I think have been so effective, and I look forward to hearing from our witnesses on the panel.

Chairman KANJORSKI. Thank you very much, Mr. Royce.

Now, we will hear from the gentleman from Kansas, Mr. Moore, for 3 minutes.

Mr. MOORE OF KANSAS. Thank you, Mr. Chairman, for convening this important hearing today. Yesterday, Ranking Member Pryce—as she indicated—and I introduced bipartisan legislation that could have a modest but very important effect on increasing capacity in the commercial property insurance marketplace for those who need access the most.

H.R. 5792, the Increasing Insurance Coverage Options for Consumers Act, would do this by allowing risk retention groups and risk purchasing groups to expand their insurance offerings to include commercial property coverage. Currently, they are limited to offering liability coverage. To break down a product liability tort law led to an insurance availability crisis in the mid-1970's. The insurance industry responded to the product liability risk crisis by increasing rates, not renewing coverage, and avoiding policyholders that sold products the underwriters considered hazardous.

In response to recurring shortages of liability insurance, Congress enacted the Products Risk Retention Liability Act of 1981. This Act authorized a group of similar businesses with similar risk exposures to form risk retention groups to self-insure those risks

on a group basis and it also created risk purchasing groups to allow insurers to market on a group basis.

The Act was amended in 1986 into its present form as the Liability Risk Retention Act. In addition to expanding the scope of the Act beyond just product liability to all kinds of liability, the 1986 amendments also provided that risk retention groups would be regulated primarily by the domiciliary States with only limited regulatory oversight by non-domiciliary States in which the risk retention groups operate.

At the request of Mike Oxley, the former chairman of the Financial Services Committee, the GAO conducted a study on the regulation of risk retention groups. On August 15, 2005, the GAO filed a report and concluded that risk retention groups have had an important effect on increasing the availability and affordability of commercial liability insurance. In addition, the GAO found that the LRRA's partial pre-emption of State insurance laws has resulted in a regulatory scene characterized by widely divergent State standards.

As a result, the GAO believes risk retention groups would benefit from uniform, baseline, regulatory standards, and corporate government standards. First and foremost, our legislation would address the shortcomings identified in the GAO report for these groups by codifying the National Association of Insurance Commissioner's proposed corporate government standards for risk retention groups into law. This important change will ensure that the interests of the management of these groups and the members will be aligned.

Additionally, recent catastrophic events such as Hurricane Katrina and the 9/11 attacks led to affordability and availability crises in the property insurance marketplace in certain areas similar to the problems we saw with product liability in the 1980's. I believe the time is now, before we experience another hard market for commercial property insurance to expand the Liability Risk Retention Act to include property coverage. This will add much-needed capacity to the commercial insurance marketplace by improving competition, which relates to more affordable and available coverage. This legislation not only enjoys bipartisan support on this committee, but it also has the support of a broad swath of the insurance industry, consumer groups, public housing authorities, and Realtors, among others.

I look forward to hearing the testimony of the witnesses, and I hope that we can quickly move this important legislation through the committee.

Thank you, Mr. Chairman.

Chairman KANJORSKI. Thank you, Mr. Moore.

We will now hear from the gentleman from Kentucky, Mr. Davis, for 2 minutes.

Mr. DAVIS. Thank you, Chairman Kanjorski, and Ranking Member Pryce, for holding this hearing today on the various proposals for insurance reform.

In March, I was honored to collaborate once again with my good friend from Georgia, Representative David Scott, on H.R. 5611, the National Association of Registered Agents and Brokers Reform Act. We both introduced this bipartisan bill with 14 original cosponsors,

and are now up to 30 cosponsors. As you all know, the Gramm-Leach-Bliley Act would have created NARAB in the event that the States did not satisfy the producer licensing reform requirements outlined in the underlying bill, but because the States were perceived to have a level of licensing reciprocity, NARAB was never created.

Nearly 10 years since the passage of Gramm-Leach Bliley, we are still in need of progress on this issue. H.R. 5611 mandates the creation of NARAB. The board will operate generally in the same way as the provision in Gramm-Leach Bliley. In short, agents and brokers licensed in good standing in their home State and meeting NARAB member criteria will be able to join NARAB.

NARAB members would still pay the appropriate fees required by each State in which they are licensed. NARAB would not have any Federal regulatory authority. I have a number of outstanding concerns about creating a Federal regulatory. NARAB II is, in my view, a meaningful contribution to the broader debate over how to go about reforming the various aspects of insurance regulations.

I look forward to hearing from the witnesses today, in particular about targeted reform measures like NARAB II, and whether or not these reforms will be helpful in simplifying the process while maintaining the current State-based system.

Thank you, Mr. Chairman, and I yield back.

Chairman KANJORSKI. Thank you very much, Mr. Davis.

We will now hear from Mr. Scott of Georgia for 3 minutes.

Mr. SCOTT. Thank you, Mr. Chairman. I, too, want to congratulate you and the ranking member for having this important hearing examining proposals to reform insurance regulation.

As the insurance industry continues to be primarily regulated at the State level, with many involved wanting increased Federal oversight, I am interested in hearing the views and concerns of our distinguished witnesses as we work towards some sort of consensus on how to proceed. I believe we all agree on this—that regulatory reform is indeed necessary, but like with any type of reform it will take time—it will take discussions and compromise on how we may move forward.

We certainly want to take into account the actual operations of these businesses—how to ensure whatever action we do take does not deter competition, and does not lessen efficiency or increase costs of operating. From the development of global markets to the various and detailed policy rationales towards pursuing regulatory reforms, we must take all into account, and we must listen to both sides of the issue before taking any further action.

I want to comment very briefly, and just expand for a moment on a bill that I recently introduced with my good friend Geoff Davis from Kentucky, and that is the National Association of Registered Agents and Brokers Reform Act, H.R. 5611, that Representative Davis spoke to a moment ago. It is very important to show that this is a very strong bipartisan effort, a great start towards reform which would help ensure adequate agent and broker licensing as well as increase competition and great choices for consumers, which is the most important thing.

Our legislation will help reform and modernize a very important part of State insurance regulation, which is the agent and broker

licensing. The legislation will further benefit consumers through increased competition among agents and brokers, which leads to greater consumer choice. This legislation is straightforward. Insurance agents and brokers who are licensed in good standing in the home States can apply for membership in the National Association of Registered Agents and Brokers or NARAB, which would allow them to operate in multiple States, which is a very, very important and necessary feature as we move forward with this reform.

A private, nonprofit NARAB entity consisting of State insurance regulators and marketplace representatives will serve as a portal for agents and brokers to obtain non-resident licenses in additional States. And this is, of course, provided that they pay the required State non-resident licensing fees and that they meet the NARAB standards for membership.

Membership in NARAB would be voluntary and would not affect the rights of a non-member producer under any State license. Our bill would also establish membership criteria, which is again a very important need, which would include standards for personal qualification, such as education, training, and experience.

And, further, member applicants would be required to undergo a national criminal background check to protect and give the proper protections to consumers that they need. And, to be very clear, NARAB would not be a part of nor report to any Federal agency and would not have any Federal regulatory power.

And, finally, Mr. Chairman, Federal legislation is needed to ensure a reciprocal licensing process for insurance agents and brokers. And Congress, as my good friend Mr. Davis has mentioned, has already endorsed this concept with Gramm-Leach-Bliley. We are just picking up where that leaves off.

I believe the increased competition among agents and brokers that our bill would create will be beneficial to all, and on all accounts be more fair. And, in addition, and of most importance, greater consumer choice as more and more agents operate across State lines, this problem as reciprocity has become worse and it has become apparent to me and others here in Congress that true non-resident licensing reform for insurance agents could only really be achieved through legislation on the Federal side.

Our legislation has support, as we mentioned, from both sides of the aisle, because this is not a Democrat or Republican issue. It is an issue of great importance to all of the American people.

I look forward to working with my colleagues, and you, Mr. Chairman, of course, on this important piece of legislation. And I look forward to hearing from our distinguished witnesses.

Thank you, Mr. Chairman.

Chairman KANJORSKI. Thank you, Mr. Scott.

We will now hear from Mr. Manzullo of Illinois for 2 minutes.

Mr. MANZULLO. Mr. Chairman, thank you for holding this hearing today. These times of financial uncertainty have seriously raised questions about our current regulatory schemes. And it's more important than ever to be engaged in serious discourse over the who, the how, and the why of regulation.

A part of what we are examining today is the question of who should be regulating the insurance industry. This topic has been broached in hearings twice before during this Congress, and I com-

mend the chairman for engaging the industry and regulators in extensive dialogue on the issue. After listening to the testimonies from our previous hearing, I remain open, but skeptical—actually, more skeptical than open—about the optional Federal charter concept. I remain skeptical, because it is still being touted as a concept without a substantive plan that describes the how or addresses issues like the fiscal impact on the States or the impact on smaller insurers.

I have yet to see evidence that the State regulatory system has failed the insurance industry. My home State of Illinois is a model of insurance regulation with over 1,470 insurance companies licensed to do business in our State. I am unconvinced that the Federal Government could be more responsive to the unique needs of local markets and conditions than a State regulator.

I am further concerned that the resulting industry fragmentation would bring fiscal damage to the State of Illinois and squeeze out those smaller companies which may choose to remain State-regulated. When I shopped for insurance on my firm a couple of years ago, I had no less than seven quotes from seven different insurance companies, and I picked the one that ended up with the broadest coverage at the cheapest price. And I don't want to do anything to prevent the folks of Illinois from having that type of choice.

Again, I want to thank the chairman for his commitment to hearing all sides of the issue. There is still much to be discussed before decisive action can be taken.

Thank you, Mr. Chairman.

Chairman KANJORSKI. Thank you, Mr. Manzullo.

And now, finally, we will hear from Ms. Bean of Illinois for 3 minutes.

Ms. BEAN. Thank you, Mr. Chairman, and Ranking Member Pryce, for holding today's hearing.

As always, I would also like to thank our panel for their expertise and for being here to share it with us. Today's hearing is to consider the various proposals on how to best achieve insurance regulatory reform. It is important and it is timely. Within the last several weeks alone, two new pieces of insurance reform legislation authored by committee members have been introduced. And the Treasury Department issued its series of recommendations to improve the regulatory framework of our financial services, including the insurance industry.

While these approaches may differ, the theme is common. There is a clear need for comprehensive and meaningful reform. As you know, last July, Representative Royce and I introduced H.R. 3200, the National Insurance Act, which would create an optional Federal charter for life and property casualty insurers. Our bill seeks to increase consumer choice and improve industry competitiveness. I was pleased to see the recently-released Treasury Blueprint echo the sentiments of the Bloomberg-Schumer report on the importance of creating an optional Federal charter to overhaul the Nation's 135-year-old system for insurance regulation and to help maintain the preeminence and competitiveness of the U.S. capital markets.

Furthermore, as a resident of and Representative for Illinois, like Congressman Manzullo mentioned, I have seen firsthand the benefits to consumer pricing and product options in a deregulated envi-

ronment, which could be seen across the Nation if they were freed from State price controls and regulatory hurdles.

I believe H.R. 3200 can extend those benefits to consumers nationally, and, I want to associate myself with the remarks of my colleague and co-sponsor, Representative Royce, in that regard.

In the interim, I want to strongly commend Chairman Kanjorski's plan to establish an Office of Insurance Information. I see this, and I don't believe I'm alone in seeing this as a vital step towards providing greater industry agility and a modern, regulatory alternative to the antiquated and burdensome system of State insurance regulation. I look forward to hearing our panelists' testimony and recommendations for how we should proceed.

Thank you, and I yield back.

Chairman KANJORSKI. Thank you very much, Ms. Bean.

And now, I will introduce the panel. As you know, we are under the bell, so there is a vote on now, and we will have about 15 minutes to get there. But maybe we can tailor you both in before we have to leave.

So thank you for appearing before the subcommittee, and without objection, your written statements will be made a part of the record. You will each be recognized for a 5-minute summary of your testimony. And if you can do that, we will appreciate it.

First, we will hear from the Honorable David G. Nason, Assistant Secretary for Financial Institutions, Department of the Treasury, to discuss the Treasury's regulatory Blueprint with regard to the insurance recommendations.

Mr. Nason?

STATEMENT OF THE HONORABLE DAVID G. NASON, ASSISTANT SECRETARY FOR FINANCIAL INSTITUTIONS, U.S. DEPARTMENT OF THE TREASURY

Mr. NASON. Thank you very much, Mr. Chairman.

Let me first say that I am delighted to hear that you are planning to introduce legislation creating an Office of Insurance Information. You have been a leading voice on these issues for a long period of time, and we would be delighted to work with you on that as soon as we see the text of that legislation. We look forward to that, and it is just welcome news from this hearing today, so thank you so much for that.

Thank you, Chairman Kanjorski, Ranking Member Pryce, and members of the subcommittee for inviting me to appear before you today to discuss the need for insurance regulatory reform. On March 31st, Treasury released a report on financial services regulation entitled, "Blueprint for a Modernized Financial Regulatory Structure." The Blueprint reflects a year-long effort intended to provoke thoughtful discussion as we collectively work toward modernizing all sectors of the financial services industry. The Blueprint is not and has never been intended to be a response to recent stress in the credit markets.

The Blueprint presents a conceptual model for an optimal regulatory framework. The regulation of all financial services products, including insurance, is addressed in this framework. Treasury's Blueprint also presents a series of short-term and intermediate

term recommendations that could in our view immediately improve and reform the U.S. financial services regulatory structure.

Some of our recommendations focus on eliminating some of the duplication inherent in the U.S. regulatory system; but, more importantly, they try to modernize the regulatory structure applicable to certain sectors in the financial services industry within the current framework, including insurance.

Today, I will address some of the Treasury's recommendations with regard to modernizing insurance regulation in the near term. Insurance performs an essential function in our domestic and global economies by providing a mechanism for businesses and citizens to safeguard their assets from a wide variety of risks. Unlike banks and other financial institutions that are regulated primarily at the Federal level or on a dual Federal/State basis, insurance companies in the United States are regulated almost entirely by the States.

The constitutional and statutory allocation of regulatory power between the Federal Government and the States has a complex evolution. For over 135 years, States have regulated insurance with little direct Federal involvement. In 1869, the Supreme Court concluded that the issuance of an insurance policy was not interstate commerce. In 1944, some 76 years later, the Court reversed itself holding that insurance was indeed subject to Federal regulation and Federal antitrust law.

In 1945, before any assumption of Federal regulatory authority over insurance, Congress passed the McCarran-Ferguson Act, which "returned" the regulatory jurisdiction over the business of insurance back to the States. But, much like other financial services, over time the business of providing insurance has developed a more national focus, even within the State-based regulatory structure. The inherent nature of our State-based regulatory system makes the process of developing products cumbersome and more costly.

There are a number of inherent inefficiencies associated with the State-based insurance regulatory system. Economic inefficiency appears to have resulted, both from the substance of regulation, such as price controls, and also from its structure, multiple, non-uniform, regulatory regimes.

In addition to a more national focus today, the insurance marketplace also operates globally with many significant foreign participants. A State-based regulatory system creates increasing tensions in such a global marketplace, both in the ability of U.S.-based firms to compete abroad, and the allowance of greater participation of foreign firms in U.S. markets.

Treasury believes that the fundamental question is whether our current State-based system of insurance regulation is up to the task of meeting the challenges of today's evolving and increasingly global insurance market. The establishment of an OFC structure would provide insurance market participants with the choice of whether to be regulated at the national level or to continue to be regulated by the States. OFC insurance regulatory structure should enhance competition among insurers in national and international markets. It should increase efficiency. It should promote more rapid, technological change. It should encourage product innovation. It should reduce regulatory costs and, most importantly, it should provide a high quality of consumer protection.

Treasury also recommended in its Blueprint, which was very similar to what you just mentioned Chairman Kanjorski, an Office of National Insurance (ONI) to regulate those engaged in the business of insurance pursuant to an OFC. The commissioner of national insurance would head the ONI and would have specified, regulatory supervisory enforcement, corrective action, and rehabilitative powers to oversee the organization, incorporation, operation, regulation, and supervision of insurance industries.

The Blueprint also mentioned an Office of Insurance Oversight, which is very similar to the idea that you just discussed, Mr. Chairman, and while Treasury believes that an OFC offers the best opportunity to develop a modern and comprehensive system of insurance regulation in the near term, we acknowledge that the OFC debate in the Congress is ongoing.

At the same time, Treasury believes that some aspects of the insurance segment in its regulatory regime require immediate attention. In particular, Treasury recommended that the Congress establish an Office of Insurance Oversight within Treasury.

The OIO through its insurance oversight, would be able to focus immediately on key areas of Federal interest in the insurance sector. The OIO should be established to accomplish two main purposes. First, the OIO should exercise newly-granted statutory authority to address international regulatory issues such as reinsurance collateral.

Second, the OIO would serve as an advisor to the Secretary of the Treasury on major domestic and international policy issues. Once the Congress does enact significant insurance regulatory reform establishing an OFC, the OIO could be incorporated into the OFC framework.

We appreciate the efforts of the chairman and the members of the subcommittee in evaluating issues associated with modernizing insurance regulation. And we look forward to continuing to work with the Congress toward finding an appropriate balance as proposals for Federal and State regulation of insurance are considered.

Thank you.

[The prepared statement of Assistant Secretary Nason can be found on page 106 of the appendix.]

Chairman KANJORSKI. Okay, we were going to try to sneak you in, Mr. Dinallo, but we have come to the conclusion that we are not going to be able to do that.

So the Chair is going to recess the hearing until after these votes, and then return. I urge all my colleagues to come back, because obviously, this testimony is very important. We need some questions answered.

The subcommittee now stands in recess.

[Recess]

Chairman KANJORSKI. The subcommittee will come to order. We finished Mr. Nason's testimony, and now we will get to our friend, Mr. Dinallo.

STATEMENT OF THE HONORABLE ERIC DINALLO, SUPERINTENDENT, DEPARTMENT OF INSURANCE, STATE OF NEW YORK, ON BEHALF OF THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS (NAIC)

Mr. DINALLO. Thank you, Chairman Kanjorski, and members of the subcommittee. I am here to testify on behalf of NAIC, and, although I am here in that capacity, I am not here to blindly defend every aspect of State insurance regulation, which can at times be somewhat of a clunky affair.

Instead, I am here to headline that in the spirit of a new approach to move to a regulatory model that invites and accepts a Federal involvement, I want to discuss some of those options and lay out some possibilities that I think would help. But while the topic is comprehensive reform for insurance regulation, I think it's important that you hear from someone who has been on both the securities side and on the insurance side.

And on the insurance side, both in a regulatory context and on the private side, it is my opinion that State regulation has actually been extremely effective over the last 100 years on the 2 key measures of that effectiveness. The two things you would ask of an insurance regulator is whether there has been good oversight of solvency and consumer protection.

And on those bases, I think the system, both the regulators and the industry, have done a world class job, and, I think as you see over now the past, it's rather lacking many of the scandals and the insolvencies and the market meltdowns that you have seen in other sectors of the financial services community.

However, we do understand the need for improvement, especially around product and producer licensing and registration, and the uniformity in those areas. And there, I think, there is an important role for the Federal Government to play. The States sometimes do need help in achieving the uniformity of standards in those areas, and some of the Members' comments today, I think, are on point in those areas.

Although the NAIC is constantly working to achieve uniformity, it doesn't always succeed. And if achieving that objective requires the assistance of the Federal Government, we are not adverse to that help. So let me give you a few ideas for that.

I think I see five possible options. They break into two halves. There are those that the States do themselves, and those where the Federal Government has an important role. The first two are the interstate compact model, which may be appropriate to be used beyond the life insurance product approval. But, obviously, we are still only at about 31 States, although New York has seriously considered entering it, but it is an area where it is hard to achieve 50-State participation.

The second is the existing NAIC accreditation program, which also could be expanded beyond its current focus of financial solvency regulation, but again there are challenges there. The three models that I think have Federal involvement and the first being to provide some Federal incentive for States to reach compliance with the national standards, for instance, under the first NARAB provisions of Gramm-Leach-Bliley.

The second is State regulators through the NAIC set the standards in targeted areas of insurance regulation, and then a Federal mandate imposes those standards on States that don't voluntarily adopt them. But the last, that I think is the best, is an approach that I think we should seriously consider. It is what I would consider a FINRA-like model, which would give NAIC the regulatory authority over some aspects of insurance regulation as FINRA has over securities firms and dealers with the Federal Government essentially authorizing either the NAIC to do that or some other entity.

From my experience on the securities side, it has worked very well with the NASD and the States, before it was called FINRA. And I think it has been something through the central registration depository or CRD. My experience is on the private side and the public side it was something that was not complained about very often.

It was effective, and it had the benefits of giving some appropriate discretion to the States on certain issues around producers. It was not a new Federal bureaucracy. There was a single point of contact if we have that, and it brings 100 years of regulatory experience to it. It is streamlined, but it leaves the power at the State level, much as is appropriate, and doesn't run afoul of some of the pitfalls of an optional Federal charter, which I think does create problems that we seriously have to consider concerning regulatory arbitrage and issues concerning duplication.

NAIC, however, is not just waiting for that outcome. I think the system is more streamlined than our critics would have some, I believe, we're constantly modernizing without problems affecting other markets and without sacrificing strong consumer protections. As the written testimony makes clear, there are major reforms under way in producer licensing and uniformity in those areas, and the licensing of new companies. All 50 States, for instance, accept a uniform filing form and I think that we should be proud of what just happened in the bond insurance area, where in just several weeks, 49 States licensed the Berkshire Assurance Corporation to step in to the void on the bond insurance crisis.

The interstate compact is still there, but you have heard what I have said about that. Passporting reinsurance, I think, is a good idea. And I also know the NAIC is coming out with a new proposal on reinsurance, which I think will be a good step in the right direction and could be the answer there. And all those are supported by uniform standards, and some of the most advanced technology.

In closing, I just want the committee to know that I and Sandy Praeger, the States and NAIC, want to partner with you to see the successful aspects of the State-based system and fix the areas that need improvement. But I believe this offer is a major step forward, a major change in NAIC's position, which I think is important and is a definite step towards modernizing a very important aspect of financial services in this country, and I would look forward to working with you on that undertaking.

Thank you.

[The prepared statement of Mr. Dinallo can be found on page 69 of the appendix.]

Chairman KANJORSKI. Thank you, Mr. Dinallo.

Mr. Nason, I do not know whether to take the testimony of our last witness as an offer.

How would you read it, and how do you think we should respond to that offer?

Mr. NASON. I think that we should respond by saying we welcome working with the NAIC. I think the way I interpret those comments is that it is a recognition that the insurance regulatory structure needs to be modernized. I think that we can continue to try to work around the edges, or we can go to the fundamental concern, which is that we need to recognize the fact that insurance is a $6 trillion industry. It is a national industry, and it needs significant reform.

Those are tough decisions to make, but we would be happy to work with the NAIC and you, of course, on all these issues.

Chairman KANJORSKI. Do you believe that the Blueprint laid out by Treasury is the proper process, or do we need further studies and further examination?

Mr. NASON. Oh, no. We certainly need to engage with the Congress. The Blueprint was not intended to be a solution to all these issues. It was intended to start a debate. It was intended to take some positions that we think are appropriate in terms of engaging with the Congress on how to deal with these issues, but the Blueprint is not intended to be the end-all of a discussion about these issues. It just was important for the Treasury to take some positions and lean a little bit more forward in terms of how to deal with regulatory structure issues, including insurance.

Chairman KANJORSKI. How soon do you think it is possible to enact into law some of the suggestions? Do you think we can get it done in this term or in this session of Congress?

Mr. NASON. Well, we stand ready to work with you as much as possible. I know we are anxiously awaiting to see what the legislation looks like that you are proposing on the Office of Insurance Information.

I know that I and my staff will be working with you as soon as possible to see if that can get done. I know that we'll put all of our energy there, but the goal of the Blueprint was not to create expectations that we would be able to implement those things by the end of the calendar year. It was just intended to start a debate.

The precedent we are using is the green book in 1991, which led to the Gramm-Leach-Bliley, or was part of the discussions leading to the Gramm-Leach-Bliley Act of 1999, and that is the focus that we are using for these types of issues. These are long, complex issues that require a lot of debate.

Chairman KANJORSKI. I just have a moment or so left. Mr. Dinallo, could you give us a little insight?

How did you get 49 States to approve the new bond insurer of Berkshire Hathaway so quickly when we know how laborious, sometimes, the process has been in the past?

What did you uniquely do to get those States to sign it? Was it the exigency of the situation that caused them to react quickly, or what?

Mr. DINALLO. I think it was partly the exigency of the situation, but one of the reasons I did initially reach out to Jane of Berkshire Hathaway was I had an instinct that because of their franchise

value, because of the indisputable depth of their capital, and because of their long-term status in financial services that it would be an easy sell, so to speak, in the rest of the States.

So that was one of the factors. I'm not surprised that coupling the exigency of the situation with that kind of a company, it was able to be done. I also think that there was an indication here that the States are in fact getting their act together a bit. So here, 49 States in several weeks, it's hard to ask for more than that, I think. And I think it is the case that we have made positive changes. The systems are there. The problem is to have model laws that are the same in every State. That's going to be a challenge. I concede that.

I think Congressman Scott's points are correct, that on the training of the brokers, the licensing, education, those should not be dramatically different as a minimum from State-to-State.

Chairman KANJORSKI. Very good. Mr. Royce?

Mr. ROYCE. Thank you, Mr. Chairman.

Mr. Nason, the Treasury Department's Blueprint for a Modernized Financial Regulatory Structure covers the history of insurance regulation as well as many of the problems experienced right now by the current, State-based system. I was going to ask you if you believe there is one line of insurance, either property casualty or life insurance, for example, that would benefit more than the other from having the option to choose Federal regulation as opposed to State.

Mr. NASON. Thank you for the question, and also, I just want to go back and thank you for the kind words about the Treasury Blueprint. A lot of people worked very hard on that.

I think that there is an interesting discussion about an optional Federal charter for insurance, and it is whether or not it should be just life insurance, or should include property and casualty insurance. I think that it is our view that both should be part of the requirement.

Mr. ROYCE. It is a different paradigm. It is a different model.

Mr. NASON. There are differences, but there are also similarities. The similarities are that the companies are both national in scope. They both are providing coverage in a variety of States. So there are a lot of differences.

While the regulatory overlap and duplication of the structure inhibits both the property and casualty insurers are also inhibited in their competitive pressures by some of the aspects of regulation of the States such as price controls. And we think that could be dealt with.

Mr. ROYCE. How much should we be concerned by Europe's move to one national market for all of Europe?

Mr. NASON. I think that we should take that lesson and understand that this is a national market. I think that we would be better situated to engage with the Europeans in both welcoming insurers to come into the United States and allowing insurers in the United States to participate in international markets. So I think that we should take a lot of interest and learn from that.

Mr. ROYCE. The Treasury Blueprint that the Treasury has put out speaks of the interconnectiveness, the increased

interconnectiveness between financial services products, the conversions of banking and securities and insurance markets.

Why do you believe it is necessary to regulate the financial services sector by objective rather than by product?

Mr. NASON. Well, the goal there you are referring to is our optimal model in the Blueprint, and the goal there was not to provide a specific recommendation as to what the regulators would look like. But we were trying to suggest that there is a discipline associated with describing what you are trying to achieve by objective. This was something that was used very effectively in other countries like Australia and the Netherlands. If you ask what objective you are trying to achieve, and the three objectives that we identified for the U.S. regulatory structure were consumer protect, market stability, and safety and soundness, you have a better sense of what we were trying to achieve by these regulatory objectives.

Mr. ROYCE. When we go over to the issue of global competitiveness, on which we have had a number of studies, every major study that we have seen on this topic has included the establishment of an optional Federal charter for insurance, in the recommendations that they put forward.

What are some of the immediate concerns which could be addressed through either an Office of National Insurance or something along the lines of an Office of Insurance Oversight?

Mr. NASON. I think there are three immediate concerns that can be achieved: First, some Federal presence in a market that is national and global in scope; second, you can deal with some of the regulatory inefficiencies of having 50-plus regulators; and third, it is very important to have a regulator that can view trends, that can have systemic-type implications across the Nation. So those are the three big issues. I think each of them are addressed quite comprehensively in a national insurance office and in an optional Federal charter construct, and that is why we recommended it in the Blueprint.

Mr. ROYCE. Thank you, Mr. Chairman.

Chairman KANJORSKI. Thank you very much, Mr. Royce.

Now, the gentleman from New York, Mr. Ackerman.

Mr. ACKERMAN. Thank you, Mr. Chairman.

This is for Superintendent Dinallo. As the insurance industry evolves, and more and more Americans require insurance policies in States other than their own, or in multiple States, the need both for insurers and policyholders for insurers to be able to provide policies to policyholders in States in which they might not be accredited, the need is increasing.

One of the least burdensome means through which this has been achieved thus far is through the interstate compact, a compact in which some of our larger States are not involved. Your State, Mr. Superintendent, New York, is one of those States that is not involved. My question is, will New York be joining the interstate compact?

Mr. DINALLO. Well, I think the answer, Congressman, is that it is not entirely up to me or the Department. It is a decision that ultimately would reside with the Governor and the legislature, but I, certainly, and the Department at this point is certainly in favor of doing whatever we need to do, including recommending involve-

ment in the compact. We have a few issues that we're working out with the interstate compact commission or committee, but I think on balance, it is the right thing.

I do agree that there ought to be in these areas that you describe a certain seamlessness, which again, putting aside solvency and consumer protection, which I think is something not to be overlooked and the extremely positive history and insurance regulation is something that we should be very proud of. We should do everything we can to encourage product and producer licensing and registration that is when appropriate seamless.

And so I think that as far as my support of it so to speak or the Department's support of it, it looks like we're headed in that direction. And if that will help with the rest of the government of New York State, then that is a positive trend.

Mr. ACKERMAN. I applaud you on that decision and conclusion, and say at last, an interstate compact in which a New York governor can be proud.

I yield back.

Chairman KANJORSKI. Mr. Barrett of South Carolina.

Mr. BARRETT. Thank you, Mr. Chairman.

Gentlemen, thank you for hanging in there with this marathon today. I appreciate it.

Mr. Superintendent, in South Carolina, we have done some things in the past that haven't been the best in the world, but we have a system that works pretty good, and we are extremely proud of it. And I don't want to do anything that's going to screw it up, just to be honest with you.

In your experience, what types of Federal regulatory reforms do you think may break some of the regulations that are working pretty well right now?

Mr. DINALLO. Well, I think there are a few issues. One is that I do have a strong instinct that any optional regulatory relationship I think is not a positive one. I think that the importance of regulation to a large degree is a rather close relationship where you get to understand the business, and they understand what the expectations are from the regulator.

I think that the intimacy of the State system has in fact been the reason for such a positive history on solvency and consumer protection. I think that you have to have like a marriage. You have to be in a committed relationship, and the concept of an option is sort of doomed to regulatory arbitrage and a race to the bottom, and inevitable distancing that occurs.

And I think that to the extent that it permits companies to essentially engage in that kind of conduct or the regulators just begin not to ask the tough questions or have the kind of attitude that we have had for a hundred years, I think, is really problematic. And I think that we should not race to deal with a clunkiness, which I think NAIC needs to concede and look to a success on the securities side through the CRD system and other mandated registration and licensing systems.

We should not completely change a system that is in my mind if you had to pick the two bases to judge success in insurance regulation, we have actually been world class. We have not done what I think is the third most important, as well, which is making our

companies competitive. And I think, though, that that can be improved by some of the ideas that we're ready to discuss now.

Mr. BARRETT. So you think that the idea of a one-size-fits-all type of concept is not the best in the world in allowing the States some flexibility to meet their own market demands is probably a pretty good idea?

Mr. DINALLO. Yes, I think because insurance besides being, time and again people say it's a consumer-oriented product, it is also very important to understand the local markets. In property, in particular, you'll have all kinds of localized issues, and I think that one size does not fit all, at all, in insurance.

I think that is something that people have to be very, very aware of, and I think that is why it has been successful in the last 100 years, because insurance regulators are very aware that success is quiet, and, you know, we're like the CIA. And only bad things end up in the paper, usually, when regulators go awry.

So one of the reasons why I have tried to have New York do some of the higher profile things that we have done in the last year is I do want people to understand what their regulators do for a living, because when they do it well, generally, it is quiet.

Mr. BARRETT. Right.

Mr. DINALLO. And it has been pretty quiet. Quiet is good.

Mr. BARRETT. It is good. We only hear about the bad stuff, don't we?

Mr. Secretary, kind of the same thing. I mean, tell me what you think the benefits of an optional Federal charter would be for a State like South Carolina that is doing things right.

Mr. NASON. I think South Carolina has a lot to be proud of in terms of how they are handling their regulation. They have one of the best in terms of not being welcoming of price controls, and they have one of the best and most competitive automobile insurance markets in the country, along with Illinois.

I just wanted to suggest that we are not trying to eliminate the South Carolina regulatory system, and that is why it is not a one-size-fits-all approach to have an optional Federal charter. Under an optional Federal charter system, companies can elect Federal regulation. There is always a discussion about whether or not that invites regulatory arbitrage, but we are not writing on a clean slate when we talk about an optional Federal charter. We are building off of a platform that has served this country extremely well in the banking sector. The dual banking sector has a very similar structure to this.

And what do I think an optional Federal charter will do? I think it will provide higher standards, not lower. I think that companies will gravitate towards those higher standards because uniformity will provide lower costs and better products to consumers. I think it will make us more competitive, and I think you will get more competition, more business, and more people writing coverage in South Carolina than before.

Mr. BARRETT. I see my time is up, Mr. Chairman.

May I ask one more question, if the Chair would be so kind?

So you honestly believe that a Federal regulator sitting somewhere in a lofty position is going to be more agile and more responsive than somebody, a State regulator, a State person who is in my

State, who knows the people, who knows what is going on, who has been on the ground and understands the system?

Mr. NASON. I think that the Federal Government has a good history of doing solvency regulation, so yes, I do.

Mr. BARRETT. Okay. Thank you, sir.

Thank you, Mr. Chairman.

Chairman KANJORSKI. Thank you, Mr. Barrett.

Mr. Meeks of New York?

Mr. MEEKS. Thank you, Mr. Chairman.

I am trying to decide, you know, I have been listening to a lot of people on this issue on both sides and trying to figure out which way. And I think that there has to be a way somewhere in the middle where we can make sure that we're protecting the consumers, as well as making sure that we are being competitive in nature, because the world is different than it was 30 or 40 years ago; it was a much smaller world.

So, let me ask this first, dealing with the globalization that we are currently in, and I guess I will ask Superintendent Dinallo this question. When global financial services talks are held in other countries, that's what I'm trying to focus. It makes some of our people competitive.

Do you think it harms the U.S. standing to have an official that can speak for only one insurance matter compared to banking and securities officials who speak on a national voice? And do you think that this problem would exist with other regulatory proposals that lack a national regulator?

Mr. DINALLO. Again, one has to look at what the reality is. I think that we are the most open, most transparent, most robust insurance market in the world. I think that you have four States: California, New York, Florida, and Texas. They rank among the top 10 insurance markets in the world, just as those States by themselves.

I would argue that if the tradeoff between enhanced global competitiveness is the possibility for market disruption, insolvencies, and poor consumer protection, I think we're doing pretty well against that kind of benchmark versus messing with the system.

Now, I don't dispute that we should step back and enhance the registration and licensing and product approval process that is unnecessarily clunky, I think, in the State system. But I would not seek to completely rewrite the regulation of the insurance industry off of the history that we have. And with all due respect, I would argue that some of what has gone on in commercial banking has not been entirely positive. And, I know that last time, there was this big debate about whether it was the State's fault or the Federal Government's fault.

I don't think it's any one system's fault. I think that a dual, chartered system has real pitfalls to it, and sometimes there are mispicks. And there is certainly a regulatory arbitrage that I think is one that we should consider seriously steering away from.

Mr. MEEKS. You know where the market seems to be going, and I agree.

Those four States, right now, are the biggest. But as the China's of the world, and the India's of the world, and others continue to grow, and you look at the number of individuals that are there, and

as they begin to be able to afford it, etc., then that is a market that a number of our companies, and I surely want them to be able to compete in.

Do you believe that by not having a national regulator, having one system, this system would hurt our competitiveness?

Mr. DINALLO. I think where it's most challenging is in reinsurance. And I have in other public statements supported the ideas of passporting for reinsurance, or I know people have discussed some kind of body, maybe Federal/State partnerships where you do have some designated lead States and you've discussed the solvency. You know, New York has been a leader on this decollateralization issue, and I think we should seriously look at what is becoming arguably a trade issue.

But I think that it's just to me an issue of deciding whether you have a lead State or some kind of body that's responsible for what really matters in reinsurance to a large degree, which is solvency, and the legal system of that State and your ability to enforce court decisions.

But I don't think that the lack of a Federal regulatory on the scale that you're talking about is something that's going to doom us to uncompetitiveness. Right now, I would hazard to guess that other financial services areas wish they had such an intact regulatory system that does not have some of the issues that we've gone through in the last several years, and other countries, I think, would actually be envious of where we are right now.

Mr. MEEKS. Let me just ask this question. I see my time is running out. I have one question I want to ask Mr. Nason, but I want to ask one more question of the superintendent, as well.

What about the reinsurance industry? It's a very global industry. They write contracts on multi-State bases. Their customers are sophisticated insurance companies, unlike direct companies, and they're not subject to rate and form regulation.

Do you think the reinsurance industry merits congressional consideration of a Federal regulation?

Mr. DINALLO. I have said publicly that it is not Federal involvement that I have an issue with. What I am concerned about is the optional part of it, and I have said publicly that in reinsurance in particular, there may be a good role for the Federal Government. Maybe there ought to be a role, but, again, we haven't had some of the issues and the insolvencies that you would otherwise be fearful of in reinsurance.

But, I would say they have all of them, because it's a pure capital play and it's among institutional players. There is the greatest possibility there, but I think you could do it through passporting or the other model that I know the NIC is going to come up with and I think that the chairman is considering.

Mr. MEEKS. Mr. Secretary, let me just quickly ask you this question. The superintendent is right in the sense that, you know, the system seems to have been working, protecting consumers for a long period of time. I know that the Treasury Blueprint talks about public policy goals such as stability, solvency, consumer protection, consistency, and uniformity. It seems as though under the State system, that has been successful.

Why do you think a Federal regulator now, you know, who may not have the same interest that the local or State individuals have, who have made sure that consumers are protected, why would a Federal regulator be a better person to come in and do this regulation as opposed to New York, who has this great history? Or South Carolina, as has been mentioned?

Mr. NASON. I agree with the superintendent that we haven't seen recent problems on the State side for insurance companies. But, let's not kid ourselves. The State regulatory regime for insurance is not without problems. There were significant insolvency concerns in the 1980's. Those led to other calls for Federal action for insurance regulation, so there are certainly concerns that we have seen in the insurance regulatory structure. And, the current things that we are seeing in the credit crisis, there are certain problems that we have seen in terms of State regulation and failures in State regulation for some of the banking areas. So it would be incorrect to suggest that State regulation is a model of perfection, while Federal regulation has been a failure.

I think that it is also a false choice to assume that moving to a Federal regulator is going to abandon adequate consumer protection. That is certainly not the case. I mean, we had suggested in our Blueprint and we would be advocating quite strongly that there would be a very strong consumer protection component to any Federal regulator for insurance. So I think that we both agree that consumer protection is a very important part of insurance regulation.

I think that the data are compelling, that we need to move to Federal regulation for insurance considering the changes that we've seen in the insurance market, and I think that it is incorrect to suggest that the State regulatory regime did not experience problems in our recent history, in fact.

Mr. MEEKS. Thank you, Mr. Chairman. I yield back.

Chairman KANJORSKI. Thank you, Mr. Meeks.

Now, Mr. Scott of Georgia?

Mr. SCOTT. Yes. Let me carry that line of thinking along, just a little bit, Mr. Secretary, and Mr. Superintendent.

In fact, though, we're moving along pretty well. You know, I served in the Georgia House of Representatives for 8 years, down in Georgia, and in the State senate for 20 years. We're doing very well in Georgia. We're doing very well across with the system as we are moving.

My concern about the Federal charter is I know one thing it would do. It would have a very devastating, negative impact on competition, especially with the smaller companies competing with the larger companies. There would also be some very problematic issues of timelines, of how would it be implemented.

Why is it necessary to be implemented, especially when the system now is stable and is functioning? And on the two really important points of consideration, competition within the industry, and most of all the benefits to the consumer, because at the end of the day, that is really what we are after. The benefits to the consumer, the convenience of the consumer, and it just makes sense.

Now, I just want to get to one example. According to the NAIC data, States generate roughly $2.75 billion in non-premium tax rev-

enues from insurers and producers. Correct? My bill that we're working on, my colleague, Geoff Davis, and about 35 other co-sponsors are working with, requires the agents and the brokers to pay the licensing fees in every State in which they operate.

But, under the proposal like the optional Federal charter, the States would forfeit these dollars for each insurer and producer that shifts to a Federal charter. That is a tremendous loss of revenue and another negative feature that would happen with the optional Federal charter. I am not in any way poking holes in this; I am just trying to bring a major point of clarity here.

If the largest of insurers representing the vast majority of fees and premium volume become federally chartered, how will States recover from losing this $2.75 billion, the significant source of general revenue?

Mr. NASON. Let me go back to the beginning of your question, first, to say that simply because we are doing well does not mean that we shouldn't be striving for improvement. If the goal of what we are trying to achieve is to provide benefits to the consumers, I think a regulatory structure that takes away redundancies and burdensome costs will be passed on to the consumer, and those consumers that we are trying to look after will have lower priced products and more choices, and will not have to suffer any detriment to consumer protection.

With regard to your second question, the legislation that has been proposed in both Houses by Congresswoman Bean and Congressman Royce has provisions to protect some of the funding that is provided to the States in terms of State tax revenue to address some of those concerns that you are referring to. So the details of how that legislation is crafted to deal with some of those issues would need to be worked out, but I think they could be worked out.

Mr. SCOTT. Let me continue that line of questioning.

Mr. Dinallo, I would like for you to respond and give me your thoughts on that, as well. That is a significant amount of money, just one example. But I honestly believe that States having primary authority over the insurance industry is a legitimate regulatory entity.

And as States are able to make their own rules, to comply with what that State deems important for their population and have the independence to grow in their own way, each State is different. Trying to make one shoe fit all feet in this room would be an impossibility, and that applies to these very diverse and different States with different features in each different region.

But that dependence to grow in their own way and on their own time would further ensure competition within the industry. I think this is the case, don't you? And wouldn't ensuring States having the primary authority over the industry ensure that competition?

I would like for you to talk about cost. You talked about efficiencies, you know. How would some Federal oversight increase or decrease efficiency?

Mr. DINALLO. I think there is a history of the States being innovative. There are some attributes of a kind of a competitive system. I actually don't think competition among regulators is the worst thing in the world. I know that Secretary Paulson in his statement about the Blueprint said that as if it were a negative. I think some-

times it's a positive because I think the people demonstrate between themselves the best way and that can become a national standard, and I think that one always has to be aware of that.

I think that you're correct that there is going be some loss of revenue base. But again, I don't think that Assistant Secretary Nason and I are so far apart on the following concept, which I think is something that you were talking about in your opening comments, we do need to find ways where we streamline and do nationalize certain aspects of insurance that I think would not run afoul of your concerns. And I think those should be in areas concerning registration and licensing, and I think we should get there. I think it's important. I urge the committee to look at what happened on the security site in those areas, and look at CRD and THINRA remodel now, because I think it's a way, it's the best way I can think of to achieve the best of all worlds, sort of the ultimate compromise—although that's probably the wrong word—the maximal way to save the best parts of the different systems or the approaches of a Federal system, which I think we do need to worry a little bit about speed to market and the registration of producers. Those are important things.

The States may never be able to do them as well as if the Federal Government, so to speak, gave certain overarching authority in minimum stands. Or the NARAB approach. But I'd almost rather that become something that is not optional.

Mr. SCOTT. Okay. Thank you, Mr. Chairman.

Chairman KANJORSKI. Thank you. We can now hear from the gentlewoman from Illinois, Ms. Bean.

Ms. BEAN. Thank you, Mr. Chairman. And thank you for waiting until I could get to my questions. But it looks like I'm last. So if we are quick and no one else sneaks in, you will get out of here pretty soon.

I have a couple of questions for Secretary Nason. First, the Treasury Blueprint calls for the creation of a national insurance office that would offer the option of uniformity and national regulation. What are some of the effects you think would develop from the additional efficiencies of that uniformity and also specific relative to product approval, speed-to-market, and portability?

Mr. NASON. I think the benefits are many. I think that cost for companies doing business on a national basis would go down. I think that the speed-to-market concerns that the NAIC is working very diligently to impact with their interstate compact would be addressed comprehensively and with one fell swoop in that type of legislation. So I think products would get out to the marketplace faster. I think both of those things would be extremely important benefits to what is essentially a national industry.

Ms. BEAN. Do you think speed-to-market would spur greater innovation since there's a greater reward for being the early market entrants? Coming out of the high-tech industry, I know often that was the reward for doing R&D, to coming out with new products, taking it to market first as you would get the lion's share of that marketplace.

Mr. NASON. Right.

Ms. BEAN. Right now there isn't that incentive in the insurance industry.

Mr. NASON. Sure. Absolutely. I think that one of the problems that inhibits innovation in the insurance industry is regulatory structure. I think that is beyond debate.

Ms. BEAN. Thank you. The other question is—as the Blueprint outlines pretty clearly—as the marketplace has evolved in the capital market space, and there is a lot of convergence of product types, so insurers are engaged in far more complex financial transactions than they once were, are States equipped to regulate those more sophisticated global insurance products?

Mr. NASON. I think that is a very good question, and I think these companies are getting more and more complex. One of the comments that we received was—I will read it and then I will just describe where it was from—"The current United States regulatory structure is not fully equipped to supervise the sophisticated insurance marketplace of the 21st Century. The need to operate within the State patchwork of regulation in the United States means that insurers with customers with worldwide operations are hindered in their efforts."

That was submitted to us in connection with our Blueprint and one of the signers was a former president of the NAIC.

Ms. BEAN. I appreciate your clarification on that, and I also want to thank you for addressing Congressman Scott's concerns about State revenues, because it would be revenue-neutral. There wouldn't be a loss of revenues to the States. I don't think he heard me, but I will share that with him later. But I am glad that you cleared that up for the record. Thank you, and I will yield back.

Chairman KANJORSKI. Gentlemen, we have come to the end of the first panel. Thank you very much for your indulgence. The panel is now dismissed, and I would like to welcome the second panel.

I am pleased to welcome our second panel. First we will have Mr. Lawrence H. Mirel, partner, Wiley Rein, LLP, on behalf of the Self-Insurance Institute of America to discuss retention group reforms. Mr. Mirel?

STATEMENT OF LAWRENCE H. MIREL, PARTNER, WILEY REIN LLP, ON BEHALF OF THE SELF-INSURANCE INSTITUTE OF AMERICA (SIIA)

Mr. MIREL. Thank you, Mr. Chairman, and members of the subcommittee. My name is Lawrence Mirel, and I am with the law firm of Wiley Rein. I am the former commissioner of insurance securities and banking for the District of Columbia; I served in that position from 1999 to 2005.

I am delighted that the subcommittee is taking on these various insurance regulatory reform proposals, and I am honored to be invited to participate.

I am here today on behalf of the Self-Insurance Institute of America, to testify in favor of H.R. 5792, the Increasing Insurance Coverage Options for Consumers Act of 2008. SIIA, as it is known, is the country's largest nonprofit association that represents companies involved in the self-insurance alternative risk transfer marketplace. Its membership includes self-insured employers, captive insurance companies, risk retention groups, insurance entities, cap-

tive managers, third-party administrators, and other industry service providers.

I won't go through the history of the Liability Risk Retention Act because it was covered earlier by Mr. Moore, who is the co-sponsor of this new bill, but it goes back to the crisis that we had with liability insurance in the 1980's. Today, there is a new insurance crisis. Because of the devastation caused by Hurricane Katrina and the other major storms in 2005, commercial insurers are reevaluating their exposure in areas of concentrated catastrophic risk and in some cases are seeking to reduce their property insurance coverage in such areas.

As a result, the cost of property insurance is rising everywhere, and in some places it is hard to obtain at any price. This has led to a renewed interest in the possibilities offered by the alternative risk market, which includes all kinds of self-insurance mechanisms, including risk retention groups.

These non-traditional insurance entities provide options that are not available through the commercial insurance market. Risk retention groups in particular provide a way for businesses and nonprofit organizations that are engaged in similar kinds of activities and face similar risks to band together and collectively provide insurance coverage to their members.

Currently, these risk retention groups may only offer liability insurance. The new bill would allow them to offer property insurance as well.

I want to point out that the bill under consideration does not call for a government solution to the property insurance crisis. No new responsibilities would be undertaken by any agency of the Federal or State Governments, and no taxpayer money would be put at risk. This bill would simply provide consumers with another competitive option to manage their risk exposure in a difficult environment where capacity is limited.

As the GAO said in its 2005 report on risk retention groups, risk retention groups have had an important effect on increasing the availability and affordability of commercial liability insurance for certain groups. We think it will have the same effect on property coverage availability as it did on liability coverage availability.

A risk retention group offers a number of important incentives to its members. Policies can be written that more precisely fit the risks of the member entities. Risk retention groups offer their members custom-made insurance plans instead of the off-the-shelf plans offered by commercial writers.

Underwriting can be geared to the actual risks of the member companies instead of their risks being averaged with the risks of other kinds of entities that may in fact be very different. A risk retention group allows more knowledgeable and professional risk management to take place.

Perhaps most important of all, the appeal of the risk retention group is that it can operate across State lines without having to be licensed in multiple jurisdictions and subject to overlapping regulatory authority.

Mr. Chairman, I don't want to take any more time because I know we're short of time, but I do want to thank in particular Congresswoman Pryce and Congressman Moore for their leadership in

introducing this bill. We think it will provide an important new option to people who are looking for property insurance coverage. It will not solve the problem, but it will help.

We thank you for listening to this testimony and for considering the bill.

[The prepared statement of Mr. Mirel can be found on page 98 of the appendix.]

Chairman KANJORSKI. Thank you, Mr. Mirel. I appreciate that.

Next we have Mr. Alastair Shore, senior vice president and chief underwriter of CUNA Mutual Group, on behalf of the American Council of Life Insurers and the American Insurance Association, to discuss optional Federal charter.

Mr. Shore?

STATEMENT OF ALASTAIR SHORE, SENIOR VICE PRESIDENT AND CHIEF UNDERWRITER, CUNA MUTUAL GROUP, ON BEHALF OF THE AMERICAN COUNCIL OF LIFE INSURERS AND THE AMERICAN INSURANCE ASSOCIATION

Mr. SHORE. Thank you. Good afternoon, Chairman Kanjorski, Ranking Member Pryce, and members of the subcommittee. My name is Alastair Shore and I am the chief underwriter of CUNA Mutual Group. I appreciate the opportunity to testify at today's hearing on insurance regulatory reforms on behalf of CUNA Mutual's insurance trade associations, the American Insurance Association, and the American Council of Life Insurers. And I would like to thank the subcommittee for its leadership in the reform debate and its commitment to finding the best solution.

CUNA Mutual is the leading provider of insurance and other financial services to credit unions and their members worldwide, and is the parent organization of all insurance companies that form CUNA Mutual Group. Established by the pioneers of the credit union movement in 1935, CUNA Mutual has a long and distinguished history in the United States.

While we work very closely with CUNA, the Credit Union Trade Association, we are separate entities. Comments today reflect the position of CUNA Mutual, the insurance company.

Having operated in the State regulatory structure for over 70 years, CUNA Mutual strongly supports optional Federal chartering for insurance companies as the best reform alternative for consumers, the industry, and the economy.

And we sincerely believe that the subcommittee's examination of this issue will lead you to the same conclusion.

H.R. 3200, introduced last July by Representatives Melissa Bean and Ed Royce, is a strong consumer protection bill, which focuses on a centralized system that emphasizes safety, soundness, and consistency of regulation. And as Representative Bean highlighted, these protections come without sacrificing State premium taxes.

We also strongly support the Treasury's view that an optional Federal charter would play an important role in the new world of integrated financial markets, and would address the burdens imposed by the State system on insurers and consumers alike.

Insurers, banks, and capital markets investors are now offering products that may be substitutes for each other, and there is a

trend towards one-stop shopping for finance and risk management needs.

Insurers must have a regulatory system that adapts to market realities and allows them to compete in a level playing field and to serve the evolving needs of the policyholders.

Moreover, the turmoil that has riled the financial system highlights the interconnectedness of our financial system and the importance of insurance to the proper functioning of that system. This is precisely the time to enact regulatory reforms that strengthen solvency oversight and foster a more competitive regulatory environment for insurers at the Federal level. Waiting will make it more difficult to correct existing problems.

The current State insurance regulatory system basically reflects an approach that began in the 19th Century and continued to expand following the passage of the McCarran-Ferguson Act, Federal law recognizing insurance as a product of interstate commerce, and delegating regulatory responsibility to the States, subject to congressional recapture at a later date.

Under McCarran, the result at the State level has been a regulatory scheme that lacks uniformity of efficiency, reflects outdated assumptions that are far from accurate today, and focuses on government intrusion in the market.

Moreover, our competitiveness is further restricted as our international trading partners move to develop more streamlined insurance regulatory models that will leave the United States behind. One such development involved the introduction of risk-based insurance solvency requirements across the EU, an initiative known as Solvency II.

The new solvency requirements will enable better tracking of the real risks run by any particular insurer, while at the same time encouraging competition and innovation. But the regulatory structures in this country will not allow U.S. insurers to be easily integrated into Solvency II to the extent that they want to take advantage of it.

In the end, U.S. insurers' competitiveness may suffer.

For these reasons, we encourage you to take a close look at H.R. 3200 as the answer. Our national companies and optional Federal charter would displace the current multi-State regulatory patchwork, with a framework for uniformity, consistency, and clarity of regulation focused on consumer needs and protection. The Federal charter option would also displace the regulatory red tape and government price and product controls that characterize the current system.

Although H.R. 3200 effectuates a fundamental shift in regulatory application, it also proposes to put in place an oversight regime as strong or stronger than any found in an individual State today.

Let me close by emphasizing that insurance regulatory reform is a critical imperative that will determine the viability of one of our Nation's most vital economic sectors and help define how our economy manages risk in the future.

The choice is between the existing 19th-Century State regulatory bureaucracy or a new approach that relies on individual choice, competition, and the evolution of our customer's needs in the 21st-Century global economy.

Thank you for the opportunity to present our views today.

[The prepared statement of Mr. Shore can be found on page 114 of the appendix.]

Chairman KANJORSKI. Thank you, Mr. Shore.

Next we have Mr. Thomas J. Minkler, president of the Clark Mortenson Agency, on behalf of the Independent Insurance Agents and Brokers of America, to discuss the National Association of Registered Agents and Brokers Reform Act of 2008.

Mr. Minkler?

STATEMENT OF THOMAS J. MINKLER, CIC, PRESIDENT, CLARK-MORTENSON AGENCY, INC., ON BEHALF OF THE INDEPENDENT INSURANCE AGENTS AND BROKERS OF AMERICA

Mr. MINKLER. Thank you, and good afternoon, Chairman Kanjorski, Ranking Member Pryce, and members of the subcommittee. My name is Tom Minkler, and I'm pleased to be here today on behalf of the Independent Insurance Agents & Brokers of America and our 300,000 individuals to provide our perspective on H.R. 5611, the NARAB Reform Act.

I am the president of the Clark Mortenson Agency, a New Hampshire-based agency with 51 employees, that offers a broad array of insurance products to consumers and commercial clients, and specifically I'm licensed to do business in nine States.

The most serious regulatory challenges facing insurance agents today are the redundant, costly, and sometimes contradictory requirements that arise when seeking licenses on a multi-State basis. The root cause of these problems is the failure of many States to issue licenses on a truly reciprocal basis.

To rectify this problem, we strongly support the NARAB Reform Act, or NARAB II. Introduced by Representatives David Scott and Geoff Davis, this legislation would streamline non-resident insurance agent licensing, but is deferential to States' rights as the day-to-day State insurance laws and regulations would not be affected by this legislation.

Given the strong bipartisan support of NARAB II—there are already over 30 co-sponsors—we are excited about the prospects for this bill. I personally would like to thank Representative Scott, Representative Davis, and the members of the subcommittee who co-sponsored the bill for their support.

Today, State law requires insurance agents and brokers to be licensed in every State in which they operate. Therefore, agents are forced to comply with varying and inconsistent standards and duplicative licensing requirements. These requirements are costly and burdensome, and they hinder the ability of insurance agents to effectively address the needs of consumers. In fact, the current licensing system is so complex and confusing that many have retained expensive consultants in order to comply with the requirements of every State in which they operate.

In my office, I have two individuals that I have to ask to take time away from their primary job functions just to manage and track licensing requirements in the States where I do business. This is not only very time-consuming, but it's counterproductive to serving my clients.

Some observers mistakenly believe that most insurance agents operate only within their home State, and that the problems associated with licensing only affect the Nation's largest insurance providers. The reality is that the average independent insurance agency today operates in more than eight States, and it's increasingly common for small and mid-size agencies to be licensed in 25 to 50 States.

Congress recognized the need to reform the industry's multi-State licensing system back in 1999, when it incorporated a NARAB subtitle into the Gramm-Leach-Bliley Act. However, true reciprocity remains elusive. Our diverse membership of small and large agents hope meaningful reform is imminent, but we are still waiting for the promised benefits.

Our members are frustrated by the many challenges and burdens they continue to face, and are increasingly impatient with the lack of actual progress.

Let me briefly mention some of the most prominent problems. Despite claims to the contrary, many States have not implemented licensing reciprocity. States continue to impose additional conditions and requirements. These extra requirements make it impossible for agents to quickly and effectively obtain and maintain the necessary license and violate the reciprocity standards established in Federal and State law.

The NAIC maintains that approximately 43 States have met this reciprocity standard established in GLBA, but the suggestion that so many States license non-residents on a truly reciprocal basis would come as a surprise to the real-world practitioners.

Many of you probably do not realize that non-resident agents typically confront three layers of licensing requirements, as many insurance departments require non-residents to obtain individual license, to obtain similar agency licenses, and to provide proof that the agency is registered as a foreign corporation.

Agents have long identified the development of a one-stop, non-resident licensing facility as a priority. The National Insurance Producer Registry has been working for more than 10 years to achieve that goal. While NIPR has made some progress and brought certain efficiencies to the marketplace, its accomplishments have been overstated by some and its objectives remain unfulfilled.

The primary challenge facing NIPR is that its licensing system must accommodate the requirements that are imposed by the States, and NIPR cannot realize its vision until States are truly reciprocal and that duplicative licensing problems have been addressed. NARAB II would address these barriers to reform.

NARAB II employs the framework first developed by Congress in 1999, and utilizes the experience and insights obtained over the recent years to improve on the concept. It eliminates barriers faced by agents who operate in multiple States, establishes licensing reciprocity, and creates a one-stop, non-resident facility.

The bipartisan proposal benefits policyholders by increasing marketplace competition, and consumer choice, and by enabling insurance agents to more quickly and responsively serve the needs of the consumers.

Once duly licensed in their home State, an agent would apply to NARAB and would have to satisfy NARAB criteria for membership. NARAB would not be a part of, or report to, any Federal agency and would not have any Federal regulatory power.

H.R. 5611 merely addresses marketplace entry. State regulators would continue to supervise and discipline agents, and would continue to enforce State consumer protection laws.

The bill also does not affect resident licensing requirements for agents who are satisfied with the current system. In short, NARAB II would provide a more efficient, modernized, and workable system of insurance agency licensing for all stakeholders.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Minkler can be found on page 86 of the appendix.]

Chairman KANJORSKI. Thank you, Mr. Minkler.

Next we have Ms. Frances Arricale, executive director of the Interstate Insurance Product Regulation Commission, to discuss the Compact.

STATEMENT OF FRANCES ARRICALE, EXECUTIVE DIRECTOR, INTERSTATE INSURANCE PRODUCT REGULATION COMMISSION

Ms. ARRICALE. Thank you, Chairman Kanjorski, Ranking Member Pryce, and members of the subcommittee. I greatly appreciate the opportunity to be here with you and to provide an update on the start-up success of the Interstate Insurance Compact. My name is Frances Arricale, and I am the executive director of the Interstate Insurance Product Regulation Commission.

The Commission is the actual public agency that manages the day-to-day affairs of the Compact. As you heard in prior testimony, the Compact does have 31 members to date, which encompasses 50 percent of the premium volume nationwide in our authorized product lines. We are an asset-based interstate compact, and that would be life insurance, annuities, long-term care, and disability income.

And we have had a great start-up success in meeting the goal of speed-to-market for those products, and doing that while ensuring continued consumer protection in the marketplace. We leverage the State-based system, the experience of the State-based system, to meet the demands of the global marketplace, allowing insurers to get their products to market quickly, without sacrificing consumer protection.

As you know, insurance is a unique product. It is a promise for future protection, for which current premiums are collected, and there is a very important concern that our regulators be able to respond locally to consumers.

We are able to provide a national platform while continuing to ensure that State insurance regulators are able to respond to consumers locally.

We have had great start-up success. We initiated our actual filing operations last year, where insurance companies can make one filing under one set of standards for one approval that is valid in all of our member States, and we do that with a speed-to-market

commitment of under 60 days, so that actually insurers can get a product to market in under 60 days.

We have achieved a great deal of consensus with our member States, working with our regulators, our State legislators, working with the industry and consumer representatives to promulgate national standards. We already have a portfolio of standards in the life area, and we are currently working on standards in the annuities area. We expect to fulfill the portfolio of the four lines and asset-based products by next year, and we do this by utilizing technology. These are electronic filings that are made and we continue to work with our member State insurance departments to provide them with the most up-to-date information they need to respond to their constituents locally.

I will note that our standards are truly a race to the top. We are not looking for the lowest common denominator among the States. We are looking to raise consumer protections. Our member States are committed to that.

One example is currently right now we are working on annuity standards. As you know, there are some concerns raised, particularly for seniors on annuity standards, and we are looking to raise the consumer protections, particularly on surrender charges. And that will be accepted in all 31 of our member States, and growing.

We also make sure that the policy forms themselves are readable. We have raised the national standards on readability of policies, and we make sure that the policies themselves have our insurance commissioner's numbers right on the policy, so if they have a concern, that they are able to directly contact their insurance departments, thus, having a national standard but having consumers be able to reach out to their regulators.

Also, while we have 31 States, we have 10 States currently with legislation pending. In order to join the Compact, you need to pass the Compact model statute in your State legislature. We have 10 States currently, and as you heard, New York is one of those States. We have a number of other States, including California, New Jersey, and Illinois pending in their legislatures, and we look forward to welcoming more States into the Compact.

While we have achieved initial success, we are certainly looking for more achievements, going forward. We have approved over 50 products already through the Compact. Those are in the marketplace and they were approved within the speed-to-market 60-day turnaround time. We certainly recognize that the industry is looking to put out innovative products to really meet the ASA protection demands of the public, and we are working towards standards in all of those lines also to encompass innovative products. We will also be expanding our operations and encouraging additional States to join us.

I would like to leave you with this—the regulators, the State legislators have heard the call that reform is necessary. They have spoken about it through the NAIC, but we have actually delivered on an operational reality that we are ready, we are here, we are approving products, and we're only going to expand and build a state-of-the-art operation in order for the insurance sector to be able to compete in the global economy.

We have built the frameworks of uniformity, and we are now utilizing those, and I look forward to answering any of the questions of the subcommittee.

Thank you.

[The prepared statement of Ms. Arricale can be found on page 50 of the appendix.]

Chairman KANJORSKI. Thank you very much, Ms. Arricale.

Finally, we will hear from Ms. Donna Pile, managing partner of A.G. Perry Insurance Agency, on behalf of the National Association of Professional Insurance Agents, to discuss the National Insurance Producer Registry.

Ms. Pile?

STATEMENT OF DONNA PILE, CIC, CPIW, CPIA, MANAGING PARTNER, A.G. PERRY INSURANCE AGENCY, ON BEHALF OF THE NATIONAL ASSOCIATION OF PROFESSIONAL INSURANCE AGENTS (PIA)

Ms. PILE. Chairman Kanjorski, Ranking Member Pryce, and members of the subcommittee, thank you for the opportunity to participate on this panel. We appreciate the thoughtful, deliberative manner in which you are discussing the complex issue of insurance modernization and reform.

My name is Donna Pile, and I am a main street agent in Lexington, Kentucky. Last year, I had the honor of serving as president of the National Association of Professional Insurance Agents, and I am proud to represent PIA's over 10,000 main street agents, their employees, and their customers. All PIA members are licensed insurance producers in their State of residence, and most agencies for PIA operate in three or more States. Accordingly, insurance regulatory modernization then is a vital issue for all of our PIA members for many, many reasons.

The first and foremost fundamental is the State insurance producer licensing system. Our licensing system is comprised of resident license, non-resident license, and the multi-State licensing system, across which all of these occur. PIA was one of the original trade associations working with the National Association of Insurance Commissioners and the National Conference of Insurance Legislators to set up and fund an electronic licensing system for producers.

We realized early in the 1980's that an electronic systematic was the wave of the future, and testified as early as 1988 on the producer licensing reform before the House Commerce Committee.

The committee today has requested that PIA National concentrate our comments on the NIPR, or the National Insurance Producer Registry System. The producer licensing mechanism has been modernized and work is ongoing. It is a nationwide, State-based electronic system, similar to the State security system, CRD, or Central Registration Depository, a licensing system too. Just like the securities licensing system, the insurance producer licensing system was built by the States for the States and should remain under State control.

The mission of the NIPR is to be a premier public/private partnership supporting the work of the States and the NIIC for re-engineering, streamlining, and making uniform the producer licensing

process for the benefit of regulators, for the insurance industry, and for consumers.

The NIPR has brought us to the future through electronic licensing. Through NIPR's non-resident licensing service, producers and insurers can apply for non-resident licensing now in 47 jurisdictions and receive confirmation within a few business days. Obtaining a non-resident license in California, for example, some years ago, used to take up to 3 months. Now California, beginning to utilize more of the NIPR's capabilities, can process in less than 3 weeks.

The important thing about the producer licensing under NIPR is that this system is up and running in almost all jurisdictions and can be completed in probably the last five, in a very relatively short time.

The substantial portion of the investment of the system has already been made by the States. We are now in the process of putting the last segments to achieve our goal of a one-stop licensing system in the next 2 to 3 years.

As with all licensing matters, achieving a one-stop licensing system for insurance producers among the States requires a great deal of effort. In order to get the few remaining States to participate in the NIPR, PIA is committed to our State legislators and our regulators to keep this process ongoing.

We offer, on behalf of the NIPR, a PowerPoint presentation that we respectfully request to be included in the hearing record. This presentation will highlight for you the work that has been done and how close we are to accomplishing this modernized system.

Also, States fully utilizing all of NIPR's services will help producers understand and know the States' laws and practices that are properly aligned, so that all of us who operate in several jurisdictions have a better understanding and a certainty of our compliance of our compliance obligations.

Whatever the path one might choose to reform insurance producer licensing, the steps that we are undertaking with the States currently still must be done. The path to reform is almost complete with producer licensing through the utilization of the NIPR.

PIA National believes that the fundamental public purpose and obligation of all regulation is the safety and the protection of the consumer.

This includes supporting a sound and competitive marketplace, but it also requires oversight and enforcement of the sector's participants so that they are in compliance with the law, again for the benefit of the people.

The NIPR electronic system assists regulators with their mandate to protect consumers by allowing them to police the marketplace in a more effective manner. PIA National has been charged by our members to facilitate a modernized licensing system. The action plan we've presented through the NIPR delivers an immediate result.

Specifically in licensing, it is a constitutional and very well designed to be compatible with the overall, long-term modernization of the State oversight system.

PIA members need a system that aligns all authorities to create a harmonized system.

We thank you for the opportunity to share PIA's perspective on this important issue. PIA members are local agents serving main street America, and we appreciate your efforts to hold States accountable to the modernization goals.

[The prepared statement of Ms. Pile can be found on page 110 of the appendix.]

Chairman KANJORSKI. Thank you very much, Ms. Pile. I appreciate it. Now, before I go into my questions and thanking the panel for their testimony, I know we have gone much later than everybody anticipated. Does anybody have a flight that we are putting you at risk of missing? And if so, what do we have to do to accommodate you?

Mr. MINKLER. Mr. Chairman, it may be too late. So, I'm here for the duration.

Chairman KANJORSKI. Oh, I am sorry. Anyone else?

Well, then I thought we would go until midnight, if that is all right with everyone here.

Mr. SHORE. I also have that challenge. So we'll see how we get on.

Chairman KANJORSKI. Okay. Well, let me just waive my questions initially. If I have some that are so burning that I have to go back to them, I will. Let me go to Ms. Pryce for her questions.

Ms. PRYCE. Thank you very much, Mr. Chairman. Obviously I am very grateful to the subcommittee for staying here all day. Those of us who are used to this type of thing, having our lives ruled by the votes schedule, or lack of schedule, as it were, it's sort of a way of life that you warrant, and so I appreciate your flexibility.

I'm also interested because of the bill just introduced by myself and Mr. Moore and talking a little bit to you, Mr. Mirel, and any of you who would like to comment on risk retention. And perhaps you could comment on the impact that this bill, or one like it, might have on easing the insurance of affordability and availability, which is at crisis levels in some places, prone to catastrophic risk. I think I know the answer, but I would like to hear you perhaps edify me on the response that I think you will give.

Mr. MIREL. Thank you, Ms. Pryce. I appreciate the question. As I said earlier, it is not going to solve the problem all by itself. But it will provide another option to people who have commercial property risks in dangerous places like the Gulf Coast or the Atlantic Coast or earthquake zones or terrorist zones for that matter. They will have the option to come together to form a risk retention group, or if they already have a risk retention group in place that's offering liability insurance, they will now have a new opportunity to be able to get property coverage through this self-insurance mechanism.

It will be, I think, an important benefit to a small but important group of people and businesses that otherwise will not have good options or realistic options.

Ms. PRYCE. And there is, you know, a list of supporters that is very, very long to this bipartisan bill, and we have distributed it, of course, as far and wide as we can. But they range from hospitals to universities, public housing, consumer groups, and many in the industry.

But there are some that haven't been able to give it its full support, and I'm not sure why. I assume it's just competitiveness and market share, that type of thing. Would that be your impression? Any of you who want to respond, please do.

Mr. MIREL. Yes. I think that this is a pro-competitive bill. This does not cut anybody out; it simply gives more options to consumers. It will, of course, threaten people who now have the opportunity to have market shares that they might lose some of if this went forward. But even there, I think this is a minor problem, because in many of the areas where this will be used, insurers who now have the market are leaving; they are cutting back; they don't want the exposure. So even there, it is not a large problem, in my view.

Ms. PRYCE. Well, I appreciate that. I see Mr. Moore is here and I appreciate his cooperation. We have worked on many things in the past, and this is just another example of a good bipartisan piece of legislation. In the interest of everybody's time, I will yield back. Thank you so much.

Chairman KANJORSKI. Thank you very much, Ms. Pryce.

The gentleman from Kansas, Mr. Moore?

Mr. MOORE OF KANSAS. Thank you, Mr. Chairman. Mr. Mirel, in your testimony, you referred to some of the problems the GAO identified with corporate government standards for risk retention groups. And in the legislation that Mrs. Pryce and I filed, we tried to address these concerns by implementing the National Association of Insurance Commissioners' proposed government standards for risk retention groups. As a former insurance commissioner yourself, perhaps you know our former insurance commissioner, and now Governor, Kathleen Sibelius.

Mr. MIREL. Very well.

Mr. MOORE OF KANSAS. Can you explain how the legislation would help fix the problems addressed in the GAO report, sir?

Mr. MIREL. I think that the inclusion of those standards, Representative Moore, is very important to the success of this legislation. The whole idea behind the risk retention group is that it is run by its members for its members, and there have been some questions raised, some problems raised—the GAO noted these in its report—that sometimes the risk retention group is managed by outside interests and not always necessarily in the best interest of the members.

The provisions of the bill that adopt the NAIC standards, I think, will go a long way toward preventing that kind of abuse.

Mr. MOORE OF KANSAS. Thank you, Mr. Mirel. One more question, the other part of our legislation would allow risk retention groups and risk purchasing to expand their coverage options beyond just liability coverage to include commercial property coverage. Can you explain who might need access to this new type of coverage, and why now might be the best time to enact these provisions into law, sir?

Mr. MIREL. Yes, sir. I think that the ability to be able to come together to provide self-insurance through this mechanism of a risk retention group will mostly benefit those who are currently experiencing difficulty in finding coverage, or finding affordable coverage. And that primarily, right now I think, affects the Gulf Coast and

Atlantic Coast up as far as Massachusetts. Commercial property is difficult to insure in some of those areas, because commercial insurers are pulling back. And this provides these kinds of groups with another option, an important option.

Mr. MOORE OF KANSAS. Thank you very much, Mr. Mirel. Mr. Chairman, I yield back.

Chairman KANJORSKI. Thank you very much, Mr. Moore. And now the gentleman from California, Mr. Royce?

Mr. ROYCE. Thank you, Mr. Chairman, very much.

I was going to ask you, Mr. Shore, well, first one of the things that strikes me, we have a situation where because of the way State regulation works today, it doesn't work well for a lot of agents. And I have talked to agents who find it difficult to try to handle all the bureaucratic hurdles and take the exam in every State, or whatever.

So agents would like to see the process streamlined, and we have many agents who support the optional Federal charter, and actually for the same reason. But they are looking at it from the perspective also of the consumer, the customer. And they will say, you know, we have a situation where if you have a banking product and you move, you can take the banking product with you. But if you move, if the client moves, then his insurance starts all over again.

And so from the standpoint of streamlining a process, these agents tell me it actually makes sense to move to an optional Federal charter, so that the consumer as well as the agent is advantaged really in that sense.

Now when you start the discussion over the OFC, some have said that would benefit a lot of insurance companies. But what about the smaller and medium-sized companies? Well, CUNA Mutual is a medium-size operation, and I just would ask you if you believe that is the case. Would an optional Federal charter hinder your ability, Mr. Shore, to compete?

Mr. SHORE. No. I think it would enhance our ability to compete.

Mr. ROYCE. We heard Superintendent Dinallo testify. He expressed great displeasure with the effort to move to a dual-charter regulatory system for insurance in the name of protecting the consumers, or constituents, from his perspective. Do you believe the current State-based system benefits consumers? And do you believe they would be harmed under an optional Federal charter?

Mr. SHORE. No. I see, you know, within the credit union space we see—you know, credit unions that are State-chartered and credit unions that are federally chartered, and that the two systems work very well together to the protection of the consumers within that space.

Mr. ROYCE. So we have a system for banking, for thrifts, for credit unions, that works well now, but also allows for a national market so that people can—and certainly you find, for your credit union, that it is very beneficial to have this dual system.

Product approval has been a major issue raised when discussing the shortfalls of the current State-based system. Can you estimate for the committee the time it takes your company to bring a new insurance product to market when you are trying to deal with all of these various States?

Mr. SHORE. Yes, I can. You know, we will typically get approval in some States very quickly. Some of the States we have heard about today—South Carolina and Illinois for example, are very responsive. But it can take us up to 2 years to get approval for a product from all 50 States.

Mr. ROYCE. The last question I would ask you is if you believe that this type of bureaucratic delay is discouraging product innovation within the industry. Because one of the things I noticed, you know, when you look at our competitiveness internationally as well, we see that our balance of trade with respect to banking and other financial services, we have this very positive position. But where we're really in the tank is with respect to trying to get our insurance products overseas. And it seems as though the bureaucratic morass we have created—at least this is what the think tanks that have looked at this, left, right, and center, that have commented in favor of an OFC, have said to us—that it just does not make sense. This puts us at a competitive disadvantage, just in terms of our consumers, cost them an additional $13 billion additional in money because of the inefficiencies of this kind of system.

So is it discouraging product innovation within the industry, and therefore also putting it, in your opinion, at a competitive disadvantage?

Mr. SHORE. I think it certainly discourages innovation, because it does take so long to get to market and it is very costly. And we are concerned about the developments in Europe and putting the European insurers in a much stronger position than we are.

Mr. ROYCE. One market for all of Europe. You really don't have a situation in Europe, or for example, in Switzerland they say for every canton in Switzerland we should have a separate insurance commissioner, or you don't have a situation in India where they say for every state in India we should have a separate state insurance commissioner, and elect them at that, let's say. Or we don't have that in China, where they say for every province in China we should have a separate—they have one national market, and frankly for Europe it's more than a national market; it's one European market, with the resulting lower prices and more convenience. And if you move in Europe, you don't have to start all over with you insurance; you take it with you.

Mr. SHORE. Correct.

Mr. ROYCE. Yes. Thank you, Mr. Shore.

Chairman KANJORSKI. The gentleman from Georgia, Mr. Scott?

Mr. SCOTT. Yes. Thank you, Mr. Chairman.

Mr. Minkler, let me ask you about this issue of how do we arrive at complete reciprocity? Because I think that is really at the core of this. Back in 1999, the Gramm-Leach-Bliley Act recognized this issue, and moved forward with it. Could you share with us what happened then and why it was not complete, and how our legislation that we are putting forward addresses that? And then if you could give us some history as to what are some of the burdensome issues that, let's say for example, just you in your business, your firm faced with the current State-by-State issue? But I think it's very important for the committee to understand that we're not reinventing the wheel here, but this has already been laid out. This

need has been established for almost 10 years, and how it has gotten worse.

And give us some in-depth understanding of reciprocity, and why it is so critical and important that we pass this measure that Congressman Davis and I are putting forward.

Mr. MINKLER. Thank you, Congressman, I'd be happy to answer those questions. As you state, we're gaining on 10 years since the original NARAB bill. It's our belief that at the time, while well-intentioned, the bar was probably set too low. We were looking for 29 States to be compliant to avoid NARAB, but that has not happened. Compliance has waned. The reciprocity issue continues.

With NARAB II, we will be addressing all States in all the issues that are involved. There is in my day-to-day life—as I said, I do business in about nine other States—I spend an inordinate amount of time wrestling with reciprocity issues that are not there today. While we may have heard from the NIAC that reciprocity exists, truly there are a number of States that let us go online to obtain insurance licenses, but that add a burdensome layer on top of that by going beyond what the standards were set in the original NARAB, which makes it very difficult, and in many two or three steps to go through.

With a NARAB model, those efficiencies would be realized. I would spend a lot more time with my clients rather than with a bureaucrat eight States away. That's my aim and the aim of our 300,000 members is to be able to service our clients.

This would give us uniformity and reciprocity in a way that the original NARAB never delivered on.

Mr. SCOTT. And would this benefit the consumer?

Mr. MINKLER. When I'm able to spend more time with my consumer rather than in just licensing issues, they benefit. It also brings additional products to the marketplace, additional competition to the marketplace, because now we opened and leveled the playing field for anyone who wants to participate in that by giving each and every agent the ability to transact business in the States they wish to transact, and would address issues like portability, that we heard earlier is a problem.

Now we would be able to have licensing in the States that we would need to; so if we had a client who moved from State to State, it would not be burdensome the way it is today.

Mr. SCOTT. And let me ask you, what would you say would be the average number of States or jurisdictions that an agent would do business in now?

Mr. MINKLER. Our research indicates that the average is about 8 States for our agents. Now we have many agencies of mid- and larger size that do business in as many as 50 States, but on average, I would say it is about 8 States.

Mr. SCOTT. And as insurers who operate in multiple States must comply with the different States' laws, as States continue to have the primary authority to regulate their insurance, let me just ask you—I would appreciate just having your thoughts and views on how the insurance industry would evolve to include a mix of Federal and State regulation instead of completely reforming the industry with an optional charter.

As I'm looking at this, it seems to me that there is a need for a diverse mix here, that there is something here that I mean I think we can come out from this that has a variety of different points of view. I just see that there is a mix here, and I wonder if you might be kind enough to address that, how we could do that away from the Federal charter. And I'm not in any way kicking the optional approach; I'm just saying that I think that if we are allowed to put this in place, that it might do the trick and we wouldn't need to go the extent of that. I would like to have your comments on that.

Mr. MINKLER. Certainly. The NARAB II concept would initially address agent licensing and reciprocity. But the model could work across-the-board for the issues that are being talked about in OFC: The speed-to-market issues; the model that can be developed through NARAB can be applied there. It can be applied to the reinsurance and excess lines market bill that passed this chamber unanimously 2 years ago.

The model itself is transportable to address many of the issues that have been brought forward in OFC without creating a Federal bureaucracy and without adding to the 16,000 individuals who are already proficient and licensed regulators across the Nation.

It is our belief in the IIBA that targeted Federal tools as opposed to a Federal regulator can gain all the efficiencies that we are looking for amongst all the witnesses you have had today, but in a way where we do not create some large entity that would just be another bureaucratic step for agents and companies.

Mr. SCOTT. Mr. Chairman, if I may—I know my time is up—but just one quick question, because we do have a former insurance commissioner here, Mr. Mirel, I'd like to get your thoughts on it, and particularly just simply, do you think that non-resident agent licensing is an area that is ripe for reform with Federal legislation, as we are proposing?

Mr. MIREL. I certainly agree with what Mr. Minkler has said. The problem with insurance regulation—and I say this as a former regulator—is the overlapping and duplicative regulatory problems. And they can be solved through a Federal regulator, they can be solved through other kinds of mechanisms within the State system, and Mr. Minkler has talked about them. The Liability Risk Retention Act, the new bill that was introduced, H.R. 5792, is another example of how that could work.

The organization I'm testifying on behalf of, the Self-Insurance Institute of America, does not take a position on which is the preferable route to go, but certainly agrees that overlapping and duplicative regulation is holding up the system, and should be fixed.

Mr. SCOTT. Thank you very much. Thank you, Mr. Chairman. I appreciate the time.

Chairman KANJORSKI. Very good.

And finally, the gentlewoman from Illinois, Ms. Bean?

Ms. BEAN. Thank you, Mr. Chairman. And thank you all for your patience with all of our questions. I do want to specifically also thank Mr. Shore for supporting our bill and for giving some concrete examples of how you think it would benefit not only your own competitiveness, but consumers as well.

My question is for Frances, is it Arricale? Okay. You had talked about the Compact trying to improve speed to market, and you talked about a 60-day target and that you have had some success within that, but that it isn't mandated that States participate. You have 31 States that are participating. So you really don't have an ability to guarantee that speed to market nationally, just to those States who have chosen to participate.

So can you speak to—you talked about being able to get things to market quickly, so it's only within those 31 States—how long does it take someone who wants to truly go national, working with the assistance of your Compact, to do some of the States quicker before they can really get to market nationally?

Ms. ARRICALE. The national standards that we have developed, we do that in cooperation with all of the regulators throughout the country at the NAIC level, in working through those standards. It is true that we have 31 members to date, and that we are outreaching to the remaining members to join us. And we are hopeful that we will have more than 31 States even this year, and that the speed to market really is being able to file just once one form with us and getting that one approval for the 31 States.

If you did want to then roll it out to the remaining 20-some-odd States and jurisdictions, you would have to go directly to those States to get those approvals. But we are very hopeful that we will have more members join us so that you will have more approvals valid within the Compact approval process, and that it truly is speed to market.

We think having 31 States out of 50 is good; it relieves a little bit more there than half of the approvals you would need to get on a State-by-State basis. But we are looking forward to having the remaining States join us.

Ms. BEAN. Okay. I just wanted to get clarification. So you are really going from maybe 51 regulatory bodies, or filings, to 22 to actually hit the market.

Ms. ARRICALE. [Nods head up and down]

Ms. BEAN. Okay.

And you talked about within those 31 member States that are participating in the 60 days. What percentage of things have you been able to do in 60 days, and what is outstanding that doesn't get done in 60 days?

Ms. ARRICALE. Under the Compact's speed-to-market commitment, actually in our rules, is that we have to from the date of filing to date of disposition, all has to incur within that 60-day timeframe. So once an insurer files and we have insurers, large, medium, and small insurers filing with us, that we actually have to turn around the regulatory decision by the 60-day timeframe. That really is the speed to market that we are offering; we have regulatory professionals who formerly had worked in insurance departments and now work with us. A great deal of experience on these matters, reviewing as well as with a credentialed actuary, and that all of that review process so that the policy conforms to the uniform standards is done within that 60-day timeframe.

Ms. BEAN. Thank you. I have nothing further.

Chairman KANJORSKI. Thank you very much, Ms. Bean.

Now, I am going to reserve just a few minutes of my time. Ms. Arricale, I am rather intrigued with the success of the Compact thus far, but it is not thorough. What would inhibit us from including an additional power in the Office of Insurance Information that the Compact members be considered an SRO, a Self-Regulatory Organization? That organization could make a recommendation or act on certain activities, whether it be uniformity or even a product, and recommend to the Federal officer that it now be considered on a Federal or national scale, and the rule would be enhanced. That way, you do not have to go back to the 19 or 20 missing States, and it would be an incentive for them to get their tail in gear and join the Compact.

It sort of creates a national mechanism to see whether or not it would work. It would seem to me, since we could do all kinds of combinations here, including bringing in NARAB II, suggestions could be accomplished that way, at a total 50-State level. Have you given any thought to that proposition, or do you want to give it some thought and maybe some response to it?

Ms. ARRICALE. Certainly there has been discussion, and I think you heard in the prior panel in terms of having some Federal action happen in relation to the State initiatives. I do want to note that the States have worked very proactively and inclusively with the interested parties to develop this framework. I would call it the chassis that we have built with the Interstate Compact, and that the actual standards are there and ready, the operation is there, the expertise is there. We certainly are encouraging the other States to join, but to have, of course, all of the States with us would truly make it a national platform.

So I would leave this subcommittee with that we have built that framework, and we do it as a public agency. We serve the member States directly. So we do that in the public interest, and we are accountable to the public for that.

Chairman KANJORSKI. Well, what I am suggesting is, you know, we may be on to something here that you already have a comfortable organization that really represents sort of a self-regulatory organization under the Compact. But when you get to implementation at the 50-State level, you are inhibited because some States, particularly some large States, just do not want to join.

But if we were empowering the Federal officer to get a request from your organization, notify the States that are not joining that it is going to be considered by the Federal office for mandatory action of some sort, then it puts them between a rock and a hard place. Either get on board or get out of the way, because we are coming down the line. Then we could very easily do licensing, brokering. That could done rather quickly, and eventually the Office can even look at products.

Maybe ultimately we have a need, it seems to me, on international global markets, for an insurance commissioner on a Federal level to speak for the insurance industry of the United States and negotiate. We can delay it; we can say we do not need it, but in reality all the reports I am getting back indicate that we are suffering from not having that. When we have these crucial meetings, we really do not have anyone there who is being the best advocate for the entire insurance industry.

That affects everybody from the consumer to the companies to the agents. Everybody suffers a little bit when we do not have our best and brightest talent out there, with the ability to act. If we can structure something to accomplish that, that is a potentially growing mechanism, but is a heavy hand of federalizing something just immediately—I mean it seems—I think we could design a Federal insurance license that really meets the needs of all these things. I see a lot of need for growth, but I also see a need for a Federal charter or the benefits of a Federal charter in some way, for some companies, but not all companies. And it would be to have an election.

But if we find a self-regulatory organization mechanism that takes out a bureaucracy—I think we have heard that mentioned a few times—none of us want to build a big bureaucracy or a new bureaucracy. And we may have struck something here.

So if you could give that some thought, I would appreciate it. And anyone else on the panel should certainly feel free to do so as well. But we are going to be moving on this piece of legislation soon, and we do not want to cause problems that would delay its passage. It already has, I think, some good intentions and good reasons to be enacted as soon as possible.

But if everybody could sort of see it as a vehicle that can be examined over a period of several years as to how to solve some of these short delays of 10 years that you addressed, I do not think we can afford to wait 10 more years. We have to do something now. It seems that we know what the questions are; let us create the vehicle to do it. That is what we are interested in.

Now with that, let me say the fact that we held you here this long is not a record, but it is getting close to one. This is important to this subcommittee, and it is important to the Financial Services Committee as a whole. We are running out of time, but we really want to do something.

I think you can see from the nature of the hearing that we have had that we really have tremendous cooperation both in the majority and minority side of the committee, in the selection of witnesses and topics, and moving on in the commitment of the Members during the day.

I want to thank you all for taking time and being so respectful of the subcommittee and putting up with your time constraints, particularly you, sir, having missed your flight. We cannot offer you any great things in Washington, but we can recommend things not to do in Washington. Okay?

[Laughter]

Chairman KANJORSKI. And I will not go off on that.

I think it is at this point that I really want to close the hearing, so let me say that the Chair notes that some Members may have additional questions for the panel which they may wish to submit in writing. Without objection, the hearing record will remain open for 30 days for Members to submit written questions to these witnesses and to place their responses in the record.

Before we adjourn, the following written statements will be made part of the record of this hearing: The National Association of Mutual Insurance Companies; Mr. Eric Gerst; and the NIPR PowerPoint presentation for PIA. Without objection, it is so ordered.

And now the panel is dismissed and this hearing is adjourned. Thank you.

[Whereupon, at 7:05 p.m., the hearing was adjourned.]

A P P E N D I X

April 16, 2008

OPENING STATEMENT OF
CHAIRMAN PAUL E. KANJORSKI

SUBCOMMITTEE ON CAPITAL MARKETS, INSURANCE, AND GOVERNMENT SPONSORED ENTERPRISES

SUBCOMMITTEE HEARING ON EXAMINING PROPOSALS ON INSURANCE REGULATORY REFORM

APRIL 16, 2008

Good afternoon. We meet today to examine proposals on insurance regulatory reform. Today's hearing is the third in our Subcommittee's series on these matters. I would like to thank Ranking Member Pryce for again joining me in inviting today's witnesses.

At our hearings last fall, we heard about the need for reform from key participants of the insurance industry, consumer groups, regulators, and legislators. Today, we will turn to consider specific proposals to solve some of the problems that we learned about at those prior hearings. I firmly believe that the Congress should take some action on insurance regulation.

Our first panel today features a spokesperson of the state regulators and a representative from the would-be federal regulator of insurance. Superintendent Eric Dinallo will discuss the most recent plans of the National Association of Insurance Commissioners for modernizing insurance regulation. Assistant Secretary David Nason will review the insurance reform proposals contained in the Treasury Department's "Blueprint for a Modernized Financial Regulatory Structure."

This Blueprint is an important discussion document for us to consider. It makes a number of short-term and long-term recommendations, some of which I like and some of which concern me. The Blueprint's ideas on changing insurance regulation, however, merit our careful attention. I am especially pleased that the Treasury Department recommends the creation of an Office of Insurance Oversight, an idea that I have discussed for a number of years and incorporated into the Financial Services Committee's oversight plan for the 110th Congress.

Shortly after September 11, it became very clear to me that the federal government lacks the expertise it needs on insurance policy. Our experiences after Hurricane Katrina and the ongoing problems in the bond insurance marketplace have only reinforced my views.

Moreover, a simple online search of the term "insurance" using the Legislative Information System yields 87 bills introduced this Congress and referred to the Financial Services Committee. Regardless of whether or not the federal government directly regulates insurance, we must educate ourselves on insurance policy and build a knowledge base in the federal government on these matters.

Therefore, tomorrow I will introduce legislation to establish an Office of Insurance Information within the Treasury Department. This legislation builds upon my ideas and includes the functions envisioned in the Blueprint for this office. I look forward to a substantive debate on this proposal in the weeks ahead.

On today's second panel, each witness will discuss one option for insurance regulatory reform, its merits, and what problems the solution seeks to solve. As part of the ground rules for

today's proceedings, I have asked everyone to refrain from criticizing another proposal in his or her written and oral testimony.

The reasons for this request are two-fold: First, insurance is a complicated issue. Direct testimony about one proposal at a time should help us to understand each of them better. Second, I do not view these reforms as mutually exclusive of one another. We will likely work cooperatively on many of them moving forward. For example, we could ultimately consider my legislation on forming an Office of Insurance Information in conjunction with a bill to streamline agent and broker licensing.

As we proceed today, the Members of the Capital Markets Subcommittee should remain open to considering all reform ideas. The *status quo* on insurance regulation, however, no longer works. We live in an increasingly global marketplace, and insurance policy must keep pace. We have lost many manufacturing jobs overseas. We must ensure that jobs in the insurance industry do not suffer a similar fate.

We must move swiftly, but we also need to be smart about it. We will need the help of experts from the states, and I urge those here today to work cooperatively with us.

House Committee on Financial Services
Spencer Bachus, Ranking Member

For Immediate Release: April 16, 2008
Contact: Richard Cross, 202-226-0471
Website: http://republicans.financialservices.house.gov/

Prepared Opening Statement of Ranking Member Spencer Bachus
Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises
Hearing Entitled, "Examining Proposals on Insurance Regulatory Reform"
April 16, 2008

Mr. Chairman, since the creation of the Financial Services Committee in 2001, this Subcommittee has held well over a dozen hearings and roundtables on the need for insurance reform legislation. At each of these hearings the vast majority of witnesses testified strongly about the need for modernizing our regulatory system.

The Government Accountability Office has issued two reports recommending modernization of our regulatory structure. In its October 2007 report, GAO stated that "The development of large, complex, internationally active firms whose product offerings span the jurisdiction of several agencies creates the potential for inconsistent regulatory treatment of similar products, gaps in consumer and investor protection, or duplication among regulators." Interestingly, this critique was directed not only at insurance regulation, but also federal regulation of banking and securities.

The issue is not, as some might suggest, an issue of inadequate or excessive regulation. Rather, it is the failure of Congress and the regulators to keep up with the rapid evolution of the financial services marketplace.

The Financial Services Committee was created at the turn of the millennium, after the enactment of Gramm-Leach-Bliley, partly in recognition of the convergence of the financial services sectors, but also as an impetus to overcome past turf battles hindering financial modernization efforts. No one has testified that our current regulatory system is optimal, or that it would be recreated in anything resembling its current form if Congress were to redesign it from the ground up. In fact, our European partners are leap-frogging ahead of us, by adopting multiple levels of reform,

including home state deference within the EU, some EU-wide uniform rules, and limited consolidated centralization.

Reform of our system is critical, not only for some marginal industry efficiency that could lower costs somewhat for consumers, but more importantly to address the current patchwork quilt of regulations that smothers innovation and competition in some areas while leaving dangerous gaps in others.

According to a 2004 GAO report, the reliance on our current system of functional regulators results in "no one agency or mechanism [that] looks at risks that cross markets or industry segments or at the system and its risks as a whole." Reuters reported last week that the current bond insurance/subprime crisis is likely to cause global losses of over $1 trillion. Irresponsible actions by State and some federally supervised mortgage lenders and brokers triggered massive problems in the poorly regulated bond insurance market. These in turn led to a complete collapse of portions of the bond markets, a sharp reduction in liquidity across virtually all asset classes, and ultimately a tightening noose of credit constriction around the American consumer leading to further mortgage foreclosures.

There is lots of blame to go around, but no one regulator was in a good position to understand the systemic risk implications of this latest crisis. Certainly Congress should have paid more attention to warning flags by the GAO and others over the last several years. What is everybody's responsibility is effectively no one's responsibility. This is our most pressing need for reform.

With respect to improvements to the current system of functional regulation, in addition to the several thoughtful proposals before us today, I would note that the GAO has completed over 39 studies since this Committee was created recommending specific insurance reforms. At my request, GAO is now reviewing many of these reports to determine the extent to which the problems identified have been addressed. For over a hundred years Congress has been receiving testimony that reform is around the corner, with great new systems being developed. Yet innovation and globalization in the marketplace continue to significantly outpace parochial reform.

Thank you, Mr. Chairman, for convening today's hearing, and thank you to all of the witnesses for providing insight into this important reform discussion.

Testimony of the
Interstate Insurance Product Regulation Commission
(IIPRC)

Before the
Subcommittee on Capital Markets, Insurance, and
Government Sponsored Enterprises
Committee on Financial Services
United States House of Representatives

Regarding:
"Examining Proposals to Reform Insurance Regulation"

Wednesday, April 16, 2008

Frances Arricale
Executive Director
Interstate Insurance Product Regulation Commission
(IIPRC)

Testimony of Frances Arricale
Executive Director
Interstate Insurance Product Regulation Commission
(IIPRC)

Introduction

Chairman Kanjorski, Ranking Member Pryce and Members of the Subcommittee:

Thank you for opportunity to testify before the Subcommittee today as you examine proposals to reform insurance regulation.

My name is Frances Arricale. I am the Executive Director of the Interstate Insurance Product Regulation Commission ("IIPRC"). The IIPRC is the public agency charged with managing the operations of the Interstate Insurance Product Regulation Compact ("Insurance Compact"). As an instrumentality of our Member states, the IIPRC functions under a delegation of authority by our Member state legislatures and under protocols similar to the obligations imposed upon state governments and public officials.

I am very pleased to be invited before the Subcommittee today to provide an update on the successful start-up of our interstate compact as a proactive state-based reform initiative to modernize insurance regulation for the benefit of all constituencies in the ever-evolving, global financial marketplace.

As you just heard in testimony from New York Superintendent Eric Dinallo on behalf of the National Association of Insurance Commissioners (NAIC), the insurance regulatory community

continues to work diligently to implement necessary regulatory reforms to promote a robust insurance sector while upholding regulators' primary responsibility – to protect consumers. One of the critical areas on the state reform agenda is aimed at speed-to-market for insurance product accessibility; whereby, insurers are able to get new products approved and to market in a timely and cost-effective manner, so that sound and competitive products are available to consumers. The Insurance Compact is a key successful speed-to-market initiative launched by the NAIC in partnership with state legislators across the country to meet the challenges of insurance regulation within an international financial market dynamic.

Interstate compacts afford states the ability to act collaboratively on issues of national concern while continuing to respond locally to their constituencies. Our Insurance Compact has utilized this interstate cooperative structure, and added time-tested regulatory expertise along with modern technology to meet today's demands for increasingly necessary asset protection insurance. We have achieved initial operational success by initiating a central, electronic product review platform under national standards to fulfill the essential goals of regulatory modernization and uniformity while holding the bar high on consumer protection. We have accomplished this without impinging on state budgets or taxpayers.

With 31 Members to date, including 30 States and Puerto Rico, representing approximately one-half of premium volume in our authorized product lines nationwide, the Insurance Compact has made great strides in a short time, with plans for greater achievements moving forward. State regulators and legislators have built the framework for the future of insurance product regulation – and the future is now.

Background

There are a number of factors which have influenced the creation of this Insurance Compact. Since the early 1990s, there has been a heightened awareness among state insurance regulators of the need to identify and make improvements in many areas of state insurance regulation. Additionally, the enactment of the Gramm-Leach-Bliley Financial Modernization Act of 1999 directly and indirectly affected many areas of state insurance regulation, with a key emphasis on increased attention to uniformity and coordination among the states. The insurance regulatory community focused on critical areas for reform, including speed-to-market initiatives to improve the process by which insurance products are reviewed and approved by state insurance regulators across the nation.

Historically, insurance companies have been required to seek individual state action for product filings in order to roll out a product on a national basis. Regulators recognized that this created a complicated and time-consuming process for insurers aiming to bring a new product to the market; the costs of which are passed on to the consumer through product pricing. Whereas the banking and securities industries may introduce innovative products and receive rapid approvals, an approval for a new life insurance or annuity product to be sold nationally had required separate regulatory approval processes in all 56 jurisdictions in the United States which could at times take more than a year. Moreover, a company may have needed to submit 30 or 40 versions of the same product to satisfy state-specific requirements.

Driven by demanding market forces, insurance products also have become increasingly sophisticated and their shelf lives have been reduced from seven or eight years to two or three

years. These factors increased the workload for the approximately 200 regulators, about two (2) percent of the nation's insurance regulators, charged with reviewing and making regulatory decisions on asset-based insurance products.

In reviewing the options for new speed-to-market processes under the *2000 NAIC Statement of Intent: The Future of Insurance Regulation*, state regulators acknowledged that for certain insurance products, such as life insurance and annuities, these standards do not generally vary greatly from state to state since these products tend to be "mobile," moving with consumers throughout their lives. Hence, these insurance products lent themselves to a national product standards framework.

Through the NAIC, state insurance regulators agreed to utilize the vehicle of an interstate compact to meet the challenges of speed-to-market for asset-based insurance products. As a contract between states enacted through legislative action and with a statutory foundation, an interstate compact allows for cooperation on multi-state or national issues, while maintaining individual state authority and ability to act in the best interests of each respective state's local citizenry.

Although interstate compacts traditionally have been used to address border disputes and water rights, their use has expanded significantly in recent decades to cover such areas as tax issues, drivers' licensing and vehicle registration, environmental issues, emergency management, juveniles, adult offenders and other issues. According to the Council of State Governments

(CSG), there are approximately 200 interstate compacts in existence today, and every state belongs to at least one or more compacts.

Insurance has rightly attained national focus as a supporting pillar of our national economy, enabling the effective management of risk and the conversion of savings into investment possibilities. However, the unique character of insurance as a financial product which provides a promise for future protection to a consumer in exchange for current premiums, underscores the critical importance of state insurance regulators as consumer protectors. So while insurance is a national concern, the ability of state regulators to respond locally to consumers in a rapid and efficient manner has been the hallmark success of insurance regulation in our country. The Insurance Compact provides the modern structure and streamlined processes to meet the noted competitive demands of the insurance sector in the expanding global financial services market, while ensuring the imperative of continued protections for consumers of insurance.

Insurance Compact

IIPRC Structure and Governance

A state legislature must enact the *Model Compact Statute* in order for a state to join the Insurance Compact. The *Statute* was developed by the NAIC through an open, deliberative process and in close consultation and collaboration with the National Conference of State Legislatures (NCSL) and the National Conference of Insurance Legislators (NCOIL).

Twenty-six (26) states and/or states representing 40% of premium volume in asset-based insurance products nationwide was the threshold required to enact the *Statute* in order to make

the Insurance Compact operational. This goal was met in 2006, followed by the inception of the IIPRC as the public agency charged with managing the day-to-day activities of the Insurance Compact on behalf of the Member states.

The IIPRC provides the Member states with a vehicle to (1) develop uniform national product standards that afford a high level of protection to consumers of life insurance, annuities, disability income, and long-term care insurance products; (2) establish a central point of electronic filing for these insurance products; and (3) thoroughly review product filings and make regulatory decisions according to the uniform product standards.

The Insurance Compact is governed by the IIPRC, which includes one Member from each Compacting State, and each Member has one vote. Each state selects a representative as the Member of the IIPRC. The insurance commissioner is usually chosen as the Member in each state.

The IIPRC has a Management Committee of 14 Members which directs the actions of the IIPRC. The composition of the Management Committee under the *Statute* is based upon a representational structure by premium volume and includes: (1) one Member from each of the six largest states by premium volume, (2) four Members from states with greater than 2% of premium volume, and (3) four Members from states with less than 2% of premium representing each of the four geographic zones recognized by the NAIC.

Under the Compact law, the IIPRC also has a standing Legislative Committee comprised of eight (8) Member state legislators appointed by NCSL and NCOIL. Our Legislative Committee works as an active partner by monitoring the standards-setting process and making recommendations pertaining to the operations of the IIPRC.

Additionally, the IIPRC structure encompasses two advisory committees. Our Consumer Advisory Committee is comprised of consumer representatives, including the AARP and experienced consumer advocates based in our Member states. Our Industry Advisory Committee is comprised of industry representatives, including the American Council of Life Insurers (ACLI), America's Health Insurance Plans (AHIP), National Association of Insurance and Financial Advisors (NAIFA), Association of Health Insurance Advisors (AHIA), and insurance companies.

The IIPRC Office is based in Washington, DC. As Executive Director, I oversee the day-to-day operations of the IIPRC on behalf of our Member states, including our uniform standard-setting process, public notice and comment procedures, product filing operations, and reporting to Member state regulators and legislators. The actual central, electronic filing platform under the Insurance Compact is managed by the IIPRC Office. Product reviews and systems development are conducted by professionals, who are former state insurance department regulators now working for the IIPRC, and a credentialed actuary. The IIPRC Office will add new professionals to our operations as our product filing platform expands.

Uniform Standards-Setting Process

The standard-setting process under the IIPRC engages the collective expertise of the Member insurance departments as well as seeks the input of the greater state insurance regulatory community through the NAIC. The development of standards is open to public participation and comments throughout the process. Concerns from legislators, consumers and industry are actively sought by the IIPRC to ensure robust, modern regulatory standards. The IIPRC also is required to give notice directly to all Member state legislatures before any uniform product standards may be adopted.

Under the requirements of the Insurance Compact, supermajorities of both the Management Committee and the full membership of the IIPRC are necessary to adopt uniform product standards. Accordingly, a high level of agreement must be obtained in producing these nationally-accepted uniform standards to meet the concerns of all states.

As an interstate compact, our Member states always maintain their right to opt-out of the uniform standards developed by the IIPRC. However, it is most noteworthy that no Member state has opted-out of our standards to date. I would submit that given the inclusive and comprehensive standard-setting process under the IIPRC, our consensus-based approach to decision-making has forged strong but practical nationally-accepted product standards to benefit consumers and insurers. This highly-engaged interstate cooperation by our Member states and inclusive processes for all interested parties under the Insurance Compact is a testament to the states' commitment to real and rapid insurance regulatory reform.

Preservation of Rights and Remedies

The delegation of authority to the IIPRC under the Insurance Compact is for regulatory product review. Market conduct examinations, investigations and all other regulatory activities remain with our Member insurance departments. The IIPRC provides the streamlined review processes for asset-based insurance products while our individual Member states continue their market conduct activities for IIPRC-approved products.

The Insurance Compact preserves all the rights and remedies afforded to consumers and insurers under the current state-based regulatory system. The authority of persons and state attorneys general to bring action against insurance companies and agents in state court under general consumer protection laws remains intact for IIPRC-approved products. Article XVI of the *Model Compact Statute* expressly reserves these rights, including the right of access of any person to state courts; remedies available under state law not specifically related to content of a product; state law relating to construction of an insurance contract; and authority of the attorneys general of the states to bring any action or proceeding.

Insurance Compact Goals

The goals of the Insurance Compact as stated in our *Statute* and encompassed under the daily work of the IIPRC are summarized by the following:

- The purpose of the Insurance Compact is to protect consumers of asset-based insurance products in the lines of individual and group life, annuity, disability income, and long-term care insurance while providing for speed-to-market regulatory modernization.

- The Insurance Compact is enabled to initiate speed-to-market by providing a national filing platform under uniform standards for product approval processes utilized by the insurance industry. The IIPRC is charged with implementing the central clearinghouse for this product review on behalf of the Insurance Compact Member states to enhance the efficiency and effectiveness of the way asset-based insurance products are filed, reviewed and approved in the United States.
- The collective expertise of state regulation is leveraged into a national approach for "one-stop filing" under the cooperative framework of the IIPRC which provides for one central point of electronic filing under one set of uniform insurance regulatory standards for one product approval that is valid in all 31 Member states and growing.
- The standards and operations of the IIPRC, as a public agency and instrumentality of our Member states, are to uphold strong consumer protections as the hallmark of state-based regulation, while our transparent processes encourage public comment and ensure accountability to our Member States.
- The Insurance Compact framework promotes the competitiveness of the insurance industry in the global financial sector; thus, affording insurance customers quicker access to more competitive insurance products.
- Membership in the IIPRC also allows state insurance departments to more efficiently utilize department resources originally designated for product review towards other regulatory operations, including a focus on important market conduct and financial solvency reviews.

- The regulatory operations of the IIPRC are to be self-funding through filing fees which ensures that additional burdens are not placed on state budgets or taxpayers, while state filing fee and state premium tax structures continue to remain in place.

Accomplishments to Date

Membership

Currently, the Insurance Compact has been adopted by 31 Member jurisdictions – 30 States and Puerto Rico, and represents approximately one-half of premium volume in our authorized asset-based insurance product lines nationwide. Our Members are: Alaska, Colorado, Georgia, Hawaii, Idaho, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, New Hampshire, North Carolina, Ohio, Oklahoma, Pennsylvania, Puerto Rico, Rhode Island, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

All states are encouraged to join the Insurance Compact, and presently an additional ten (10) jurisdictions have legislation pending and under consideration for membership this year – Alabama, California, Connecticut, District of Columbia, Illinois, Louisiana, Missouri, New Jersey, New York, and South Carolina (Insurance Compact Map attached). The IIPRC anticipates that additional states will join the Insurance Compact during 2008 and 2009.

National Standards and Uniformity

Within six (6) months of our inaugural meeting in June 2006, the IIPRC adopted the first uniform standards for life insurance products, demonstrating the commitment of all Member

states to initiate uniformity in state regulatory product review while continuing to ensure high level consumer protections.

The IIPRC has continued to work diligently to promulgate new standards, resulting in the adoption of 39 Uniform Standards thus far. Today, we are working on the last set of standards on our current agenda for Individual Life Insurance. The IIPRC also is working on Individual Annuity Standards which are nearing final review for adoption by the IIPRC. We intend to begin work on Group Life and Group Annuity Standards during the remainder of 2008, and expect to take up proposed standards for Disability Income and Long-Term Care during 2009 to complete the portfolio of standards in our authorized asset-based product lines.

While we continue work to promulgate the full complement national uniform standards under our authorized product lines, the IIPRC has built in a transitional filing method to expand our review platform, so companies may have increased filing possibilities under the Insurance Compact in the interim.

Central Electronic Product Filing

Within one year of its establishment, the IIPRC brought its central product filing operations on-line through the NAIC's System for Electronic Rate and Form Filing (SERFF) and on-target with the Members' time frame of June 2007. The IIPRC immediately received its first life insurance product filings from insurers during the same month our national filing platform was initiated.

The Insurance Compact defines its speed-to-market mandate by providing a 60-day review turnaround time for Compact filings. This provides for the IIPRC's professional team to review filings for compliance with the national standards in terms of the content of policy forms submitted, and issue final regulatory decisions. Policy submissions to the IIPRC include policy contracts, applications and benefit riders which comprise an asset-based insurance product. Product submissions which do not meet our uniform standards and filing rules must be corrected before approval, or these submissions will be disapproved.

The initial filings received by the IIPRC have been reviewed and approved within our 60-day timeframe. To date, the average turnaround time from date of filing to final disposition has been 38 days. Large, medium and small insurers are taking advantage of the ability to make one filing under one of set of easily-accessible standards under the IIPRC for one approval received in an average of 38 days that is valid in all our Member states.

The central filing platform under the IIPRC has been moving through its initial start-up phase with less than one year of filing operational history; but within this short time, we have already approved 53 life insurance products to date. We are continuing to receive new filings as insurers are assessing the new national standards and the efficiencies of "one-stop filing" under the Insurance Compact.

Future Plans

Build Upon Start-Up Success

The IIPRC is working to build the highest-caliber, modern electronic product filing platform to meet the increasing Insurance Compact filings as we move beyond our initial start-up and complete our operational build-out during 2008.

- The IIPRC plans to continue work on promulgating new uniform standards in all four of our authorized product lines – life, annuity, disability income, and long-term care insurance. With the necessary time afforded to engage all stakeholders in the national standards-setting process, including public notice and hearings under the IIPRC's procedures, it is anticipated that our timetable to promulgate our full portfolio of standards will extend towards the end of 2009.
- As the dynamic insurance sector develops new products to meet the asset-protection needs of customers, the IIPRC will look to encompass new uniform standards, not currently on our agenda, which will allow for the filing of yet-to-be created and innovative products. As a practical central filing platform, the IIPRC Members recognize the necessity of keeping pace with the market demands.
- The Insurance Compact filing platform on SERFF will be enhanced with key improvements to accommodate the increase in filings and the requirements of our uniform standards. Additionally, the IIPRC will be upgrading the filing information interface for our Member state insurance departments to streamline their access and enhance their records capabilities for IIPRC-approved products as utilized by their market surveillance, examination, and consumer affairs divisions.

- The IIPRC will continue to promote the use of our "one-stop filing" with insurers nationwide. We anticipate an increasing volume of filings as new uniform standards are brought on-line by the IIPRC, and the operational start-up success of the Insurance Compact is assessed by companies.
- With the assistance of our Members and Legislative Committee, the IIPRC will continue to outreach to all states to encourage membership in the Insurance Compact as we expand the goals of uniformity nationwide.

Conclusion

The Compact represents a successful state-based modernization reform initiative that benefits consumers, industry and insurance regulators. It makes state insurance regulation more efficient and effective in the financial marketplace while maintaining and enhancing protections for consumers. Although Member States work jointly to develop strong national product standards, individual states will continue to monitor these products in their respective states and take appropriate enforcement actions, as they deem necessary. The Compact will allow consumers to get access to more competitive insurance products more quickly, without restricting their rights and remedies. Finally, insurance companies will be able to make their product filings at a central point; thus, avoiding duplicate filing procedures and allowing them to get competitive products into the marketplace without unnecessary delay.

Insurance regulators and state legislators have recognized the necessity for insurance regulatory reform, and proactively have engaged to respond to the competitive needs of the vital insurance sector in our global economy while continuing to meet their obligations to each insurance

consumer in their respective states. By promoting uniformity through the application of national product standards embedded with strong consumer protections, the Insurance Compact has built the framework for modern regulatory review practice in the United States. The IIPRC has implemented these modernization imperatives in short order as state insurance regulatory reform for asset-based product review moves from a modernization initiative to a state regulatory operational reality to serve the public nationwide.

Thank you again for the opportunity to testify before the Subcommittee today. I look forward to answering any questions.

For Additional Information, please contact:

Frances Arricale,

Executive Director

Interstate Insurance Product Regulation Commission (IIPRC)

444 North Capitol Street, NW, Suite 701

Washington, DC 20001

(202) 471-3972

fax (816) 460-7476

email: farricale@insurancecompact.org

web site: www.insurancecompact.org

INTERSTATE INSURANCE
PRODUCT REGULATION COMMISSION

States, Strength & Speed Aligned

UPDATE ON THE INTERSTATE INSURANCE COMPACT

MISSION: The Interstate Insurance Compact ("Compact") is a key state-based regulatory modernization initiative that enhances the efficiency and effectiveness of the way insurance products are filed, reviewed and approved in the United States. The Compact's new streamlined processes provide speed-to-market for the insurance industry, thus affording consumers quicker access to more competitive insurance products. By promoting uniformity through application of national product standards embedded with strong consumer protections, the Compact is meeting the demands of consumers, industry and regulators in the ever-changing, global financial marketplace.

BACKGROUND: The Compact has been adopted by 30 States and Puerto Rico to date, representing one-half of the premium volume nationwide. The Compact established a multi-state public entity, the Interstate Insurance Product Regulation Commission ("IIPRC") which serves as an instrumentality of the Member States. The IIPRC is the central point of electronic filing for asset-based insurance products, including life insurance, annuities, disability income, and long-term care insurance. By leveraging the insurance regulatory expertise of the states, the Compact is able to employ one set of standards with the highest level of consumer protection on a national level through the Compact's collective framework. To be funded by filing fees, the Compact implements its modernization goals without impinging on state budgets.

STATUS: Within one year of its establishment the IIPRC brought its central product filing operations on-line and received its first filings from insurers in June 2007. The Compact defines its speed-to-market mandate by providing a 60-day turnaround time for Compact filings. The IIPRC continues to receive initial filings from large, medium and small sized insurers as companies begin to utilize the Compact's new national standards which took effect in 2007. The IIPRC is working to build the highest-caliber, modern electronic product filing platform to meet the increasing Compact filings anticipated as the IIPRC completes its operational build-out in 2008.

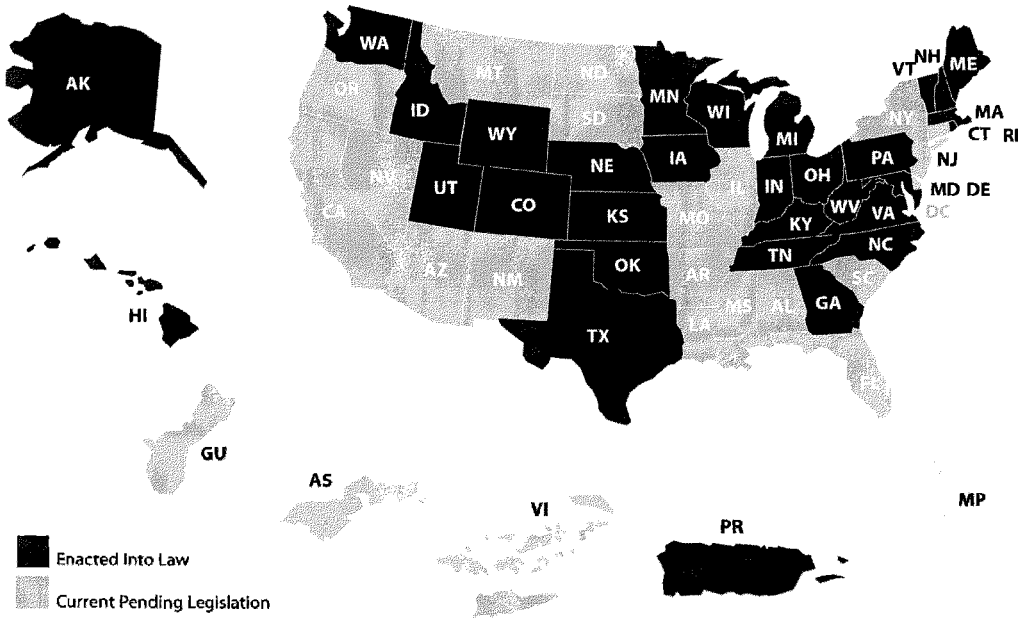
KEY MILESTONES/PLANS:

- June 2006: Inaugural Meeting of the IIPRC in Washington, DC
- December 2006: First Uniform Life Standards Adopted by Members
- June 2007: Operations Initiated On-Target/First Insurer Filings Received
- July/August 2007: Initial Filings Approved under Speed-to-Market 60-day Turnaround
- September 2007: Compact Filing Fees Implemented
- December 2007: Expansion of Compact Filing Platform
- Jan/February 2008: Experienced Regulators and Actuary join Compact Operations
- March 2008: 31 Member States / One-half of National Premium Volume
- April 2008: New Standards Effective/Increased Filings Volume Expected/ Additional States Anticipated to Join Compact

Interstate Insurance Product Regulation Commission
444 North Capitol Street, NW · Hall of the States Suite 701 · Washington, DC 20001
(202) 471-3962 · fax (816) 460-7476 · comments@insurancecompact.org · www.insurancecompact.org

© IIPRC 2008

Interstate Insurance Product Regulation Compact



Enacted into Law (31)
AK, CO, GA, HI, IA, ID, IN, KS, KY, MA, MD, ME, MI, MN, NC, NE, NH, OH, OK, PA, PR, RI, TN, TX, UT, VA, VT, WA, WI, WV, WY

Introduced or Pending Legislation in 2008 (10)
AL, CA, CT, DC, IL, LA, MO, NJ, NY, SC

IIPRC © 2008

Testimony of the
National Association of Insurance Commissioners

Before the
Subcommittee on Capital Markets, Insurance, and
Government Sponsored Enterprises
Committee on Financial Services
United States House of Representatives

Regarding:
"Options for Insurance Regulatory Reform"

Wednesday, April 16, 2008

Eric Dinallo
New York Superintendent of Insurance
On Behalf of the National Association of Insurance Commissioners

Testimony of Eric Dinallo
New York Superintendent of Insurance
On Behalf of the National Association of Insurance Commissioners

Chairman Kanjorski, Congresswoman Pryce, and Members of the Subcommittee, thank you for inviting me to testify before the Subcommittee on options for insurance regulatory reform.

My name is Eric Dinallo. I am the Superintendent of Insurance in New York. I am testifying today on behalf of the National Association of Insurance Commissioners (NAIC). I am pleased to be here today to update the Subcommittee on our ongoing, successful efforts to improve the state system of insurance supervision and to highlight the ultimate goals that we as state regulators feel must be met to continue modernizing insurance regulation.

I want to be clear at the start on one thing. The letter inviting me to testify asks me to discuss plans for "comprehensive insurance regulatory reform." As you will see, my testimony today is an essentially positive presentation about what we have done and what needs to be done to ensure that Americans have a healthy competitive and safe market for insurance products and to foster strong competitive insurance companies. The current system is not perfect and there are important steps to be taken to reach those goals. Insurance regulators have been improving their skills and policies, and enhancing resources over the past several years. We are equally mindful of the need for further changes in the law and the need to standardize. Over time, this approach offers the level of comprehensive reform to which the nation should aspire.

The current state regulatory regime has been very effective for more than 150 years. Insurance oversight has been rigorous, resulting in high regulatory compliance, avoiding the level of insolvencies and market meltdowns we have seen in other sectors of the financial community. Indeed, our national solvency system has ensured that companies have the wherewithal to pay claims while remaining competitive and profitable. When problems have arisen, state insurance regulators have acted quickly and decisively to head them off and make the necessary corrections.

For example, under exceptionally difficult market conditions, state regulators, were able to stabilize the bond insurance market and provide time for the financial markets to continue dealing with the broader subprime crisis. The condition of the bond insurers had become a major focus of

the financial markets, apparently causing wide daily swings in the stock market. We were able to stabilize the two biggest companies and bring in a major new player. There are now five triple-A rated companies and bond insurance is available to municipal and other bond issuers. And this was done with private sector solutions.

Consumer protection has been a hallmark of state insurance regulation. That is due in large part to the fact that we understand the local markets and the people with whom we are dealing. There are more than 15,000 state insurance regulators with their finger on the pulse of the local insurance markets they represent—each with firsthand knowledge of the needs of their local consumers. They are true professionals with the requisite professional designations and education to prove it.

The necessary changes and reforms can be made within the current structure or by adding to it. Yet there are those who would scrap this successful state system for a dual state/federal one. They couch their complaints against state insurance regulation in euphemisms like "patchwork" and cite unfounded claims that state regulation somehow impedes international competitiveness, and yet fail to offer any solutions that are reasonable and not extreme. Do those calling for extreme reform really know the clear path of where to go, or is a more moderate voice that recognizes the need to change the voice speaking in the nation's best interests?

Optional regulatory regimes lead to regulatory arbitrage and gaps in oversight. They are not good for anyone, least of all consumers. The states have no interest in competing in a race to the bottom that leaves our residents confused and ties the hands of state government. So I urge you strongly—please don't leave your constituents in a regulatory abyss by creating a federal chartering option.

Consider the responsibilities of a federal insurance regulatory agency. New York's Insurance Department alone handles more than 200,000 consumer calls and 55,000 complaints a year. We are able to resolve many of those complaints because of our close working relationship with the companies. It would be difficult to replicate that in a national agency.

I am not here merely to defend state regulation, but to offer it as a more rational starting point for the debate on insurance modernization. My testimony today will focus on principles for reform, in areas where uniformity of process and harmonization of standards is imperative. We recognize

that certain fundamental improvements to state-based oversight may require federal assistance or empowerment and we are actively working to develop proposals for these structural changes. However, we believe that a major "option" for reform is the continued effort of state regulators to improve the system through legislative, regulatory, and technology initiatives. Therefore, the second aspect of my testimony will discuss where the states actually stand in terms of achieving uniformity and ensuring competitiveness, and highlight specific successful state and NAIC efforts to ensure that insurance regulation can continue to evolve to meet changing local and global needs.

Section 1: A Look Forward - Assessing the Options for Reform

The NAIC finds itself in agreement with our critics on one key point: Insurance regulation needs to continually evolve. The marketplace is constantly changing, and regulation must change with it. Insurance will always retain its uniquely local flavor, but no one can deny that the business is becoming more global. So the challenge for us is to maintain the high level of consumer protection that arises from familiarity with the local marketplace and intimate knowledge of state tort and contract laws, while ensuring that the companies we regulate can operate effectively in both that local marketplace and the larger global one.

The NAIC and its members believe that there are aspects of insurance oversight that require uniformity of process and harmonization of standards. We do not believe that this kind of efficiency is mutually exclusive to effective supervision. State regulators have given serious consideration to the necessary evolution of insurance oversight, and we have developed several core principles by which any reform effort should be assessed:

- Any option(s) adopted should include enforceable uniform standards in targeted areas of insurance regulation.
- Any entity created to implement reforms or uniform standards should be developed and implemented by state regulators, who are the public servants closest to those whom insurance is designed to benefit. State regulators should both set the standards and enforce compliance.
- Any option(s) adopted should include uniform standards made applicable to all states.
- Any entity created should have an equal voice with other federal financial regulators and have some level of federal accountability.

- Any entity created should be the primary U.S. contact for coordination with international insurance regulators.
- Lastly, any reform effort that includes modernization of state laws and standardization should be taken over time, to allow for correction should the markets or consumers be placed in jeopardy.

It is important to keep in mind that these principles are intended for those areas of insurance oversight deemed by the states to be appropriate for a uniform approach. We would reject those reforms that are merely a veiled attempt at undermining state authority and substituting self-regulation or no regulation for effective oversight.

Uniform Standards in Targeted Areas

We recognize and appreciate the fact that there have been, and there will remain, areas where all states cannot agree on uniform standards. Producer licensing is an example of a significant level of state achievement that still may require federal assistance. While, as mentioned, we have had great success in achieving reciprocity in non-resident licensing, the goal of uniformity in resident licensing has proven more difficult. The NAIC believes that where such a lack of uniformity imperils consumer protections, then the balance must tilt towards achieving uniformity.

State Regulators Should Set and Enforce the Standards

As discussed previously, states have the expertise and proximity to consumers necessary to form a standardized body of oversight without sacrificing consumer protections. Local markets demand local regulation, despite the globalizing economy. State regulators are also accountable to governors, state legislatures, and citizens to be effective and responsive. Uniformity for its own sake is not even a priority among the regulated, as we are continually told by many of the groups testifying here today that they favor a local approach to regulation rather than a cookie-cutter, one-size-fits-all federal one. So it is essential that if it is necessary to create or empower a regulatory entity to develop and implement reforms or uniform standards, that entity must be controlled by state regulators. Just as important, any reform proposal adopted must allow state regulators to both set and enforce compliance with the standards.

Ensuring Compliance with Uniform Standards

Any option adopted or enacted should establish standards that would apply if an individual state's laws or regulations do not comply with the uniform standards within a specified period of time. We would envision an approach whereby national standards would be established in certain areas that would take effect if states do not reach a mandated level of compliance.

The NAIC has historically believed that federal legislation is generally not needed to achieve regulatory modernization. However, we have welcomed federal legislation that would permit equal access by all state insurance regulators to the FBI's criminal database, enable sharing of confidential regulatory information and grant states equal receivership powers with the federal government.

Ensure Equivalence in Financial Sector Regulation at the Federal and Global Level

Many critics of state insurance regulation continually focus on the fact that, while two of the three major financial sectors in the U.S.—banking and securities—have one or more federal entities representing them, the insurance sector is represented by state regulators.

Although state insurance regulators interact with their federal financial regulatory counterparts and other federal entities on a regular basis, it may be advantageous for Congress to make clear that state insurance regulators occupy a standing fully equal to that of the SEC, the Federal Reserve, the OCC and other federal financial regulators. Congress may also need to clarify that state insurance regulators are functionally equivalent to insurance regulators in other nations for purposes of international negotiations and dialogues.

Maintain Sufficient Flexibility to Meet Changing Global Environments

It is imperative that any regulatory change be implemented in such a way that the United States is not disadvantaged by the weight of its own regulatory system and can change as needed. Flexibility is the key. State regulators should be armed with the discretion to make decisions based on the local market and the needs of their local consumers. A regulatory strait jacket benefits no one.

Therefore, any legislative proposal adopted should provide broad guidelines for regulators, along with measures for accountability, but not be so prescriptive as to lock in practices that will be made obsolete by global economic and regulatory events.

Implement Change Gradually

Any change(s) enacted should provide sufficient time for implementation so that any economic outcomes can be viewed from an approaching distance rather than develop abruptly. Allowing a period of time to assess outcome development will allow the course of regulation to be changed in time to avoid outcomes that later prove to be intolerable or overly onerous.

State Insurance Regulation is Working

State insurance regulators serve a vital and relevant role in overseeing and fostering a vibrant, well-functioning and competitive insurance marketplace with strong state-based consumer protections. This coordinated, national system of state-based insurance supervision continues to meet the needs of the modern financial marketplace while effectively protecting individual and commercial policyholders.

As the insurance industry has grown, the regulatory community has adapted. We have responded to this dynamic environment through increased uniformity, interstate collaboration, leveraging of technology and enhanced operational efficiencies.

So let's not throw the baby out with the bath water. I would urge Members to carefully weigh the successful state regulatory system against a new untested federal bureaucracy. A race to the bottom benefits no one, least of all insurance consumers—your constituents. Let's end that fruitless race and concentrate on continuing to streamline and modernize the state system. You have our commitment as state regulators to do just that.

Section 2: Existing State "Options" for Modernization

State insurance regulation has evolved significantly over the last several years, with many recent accomplishments aimed toward modernization. As with any regulatory system, there are still areas where improvements can be made, and state insurance regulators are committed to addressing those issues. When Congress and federal agencies need technical expertise or policy guidance on matters affecting the business of insurance or insurance consumers, they call upon state insurance regulators. State insurance regulators are also the leaders in national and international efforts to streamline and harmonize insurance regulation across borders, whether state or international.

Congressional hearings have focused on industry claims of inefficiency in the state system, though few could persuasively argue that we have not been effective given the relative stability of the broader insurance market. As we discuss options for reform of targeted areas, we must do so with an understanding of reforms already underway. If there is a criticism of our efforts, it is that implementation nationwide has been difficult, often due to local industry opposition. Therefore, any federal assistance, where appropriate, should empower the states to act collectively and consider the merits of strengthening reforms already vetted and developed by state regulators with extensive industry and consumer input. In the following sections, I address some of those areas that Congress should examine, and though I am not so naïve as to assume that this will put the debate to rest, I do implore Members of this Subcommittee to look at the facts and make your own judgments.

State Solvency Regulation Continues to Get Stronger

One criticism you do not hear in the clamor for an optional federal charter is that the states have a weak solvency regulatory system. The NAIC developed several important solvency initiatives in the 1990s, including risk-based capital (RBC) minimum capital requirements that are geared toward an insurer's exposure to certain risks; codified statutory accounting principles and a uniform statutory annual statement ("blank") for disclosure of financial results; and analysis and examination handbooks and procedures for state insurance regulators to ensure proper solvency assessment of insurers. These core solvency initiatives are wrapped up in the NAIC Accreditation Program to prevent a "race to the bottom" where insurers would locate in states

with weaker solvency regulations. The Accreditation Program is in force in 49 states and ensures that all jurisdictions use the same solvency standards.

The above initiatives have resulted in the NAIC's ability to host more than sixty financial tools for state regulator use, which can produce more than 100 different types of reports, to help identify potentially troubled companies at an earlier time. The NAIC hosts the largest insurance financial database in the world, providing a centralized tool for use by all states which saves states the cost and resources of having to duplicate this tool. Other tools exist to allow regulators to share important confidential information on permitted accounting practices, possible changes in control of an insurer, the status of a company in receivership and examinations that have been called, among many other important issues.

States are also not averse to taking good suggestions from the federal government, as they did in making changes to the Model Audit Rule based on the best aspects from the Sarbanes-Oxley Act, which were adopted by the NAIC membership in 2006. The amendments comprising this key rule were the culmination of a three-year collaborative effort among regulators, industry representatives and trade associations.

As noted previously, state insurance regulators are working to lower collateral requirements to allow strong foreign reinsurers better access to the U.S. market, and consider a single-state "passport" system of oversight. However, it is the domestic insurance companies that are resisting this modernization effort. They claim we are moving too fast; an irony that calls into question their dubious claims of our inability to take action quickly.

Producer Licensing

The insurance agent (or "producer") community claims that the licensing process can be improved, and we agree. The NAIC identified producer licensing as one of its key strategic issues in 2007, forming the NAIC/Industry Producer Licensing Coalition to partner with the national trade groups on our uniformity initiatives. The Coalition was well represented, with ten states and twelve trades participating, including the American Council of Life Insurers (ACLI), America's Health Insurance Plans (AHIP), the Council of Insurance Agents and Brokers (CIAB), the CPCU Society (the professional association for chartered property/casualty underwriters), the Independent Insurance Agents & Brokers of America (IIABA or the "Big I"), LIMRA (a life

insurance market and research association), the National Association of Insurance and Financial Advisors (NAIFA), the Million Dollar Round Table (MDRT), the National Association of Health Underwriters (NAHU), the Property Casualty Insurers Association of America (PCI), the Society of Finance Service Professionals and the National Association of Professional insurance Agents (PIA).

The 1999 Gramm Leach Bliley Act (GLBA), which reaffirmed state oversight of insurance, included a provision requiring that at least 29 jurisdictions meet uniformity or reciprocity requirements by November 12, 2002 in order to avoid federal preemption by the creation of NARAB. The states exceeded that threshold, set by Congress, and now have 43 reciprocal jurisdictions. Reciprocity is a good start, but shortly after passage of GLBA, the NAIC Producer Licensing Working Group focused its attention on uniformity and the development of uniform licensing standards for implementation nationwide. The NAIC adopted Uniform Licensing Standards in December 2002, and continues to track states' progress in achieving compliance with those standards. In November 2007, the NAIC embarked upon a national on-site assessment of each state's compliance with reciprocity and uniformity standards, reaffirming compliance with GLBA and identifying areas for the states to improve. The NAIC believes that the assessment process and report provides an honest assessment of producer licensing reform efforts.

Although having 43 states meet the agent licensing reciprocity requirements in the Gramm-Leach-Bliley Act may be a laudable achievement, we fully realize that 43 states do not equal a uniform national system. The ultimate goal in this area is reciprocity *and* uniformity, and if achieving that objective requires the assistance of the federal government, consistent with the principles listed above, we are not averse to that help.

The automation of the producer licensing process through technology provided by the NAIC and its affiliate the National Insurance Producer Registry (NIPR) have dramatically altered a historically paper-intensive process. Through NIPR's non-resident licensing service, producers and companies can apply for a non-resident license in 46 jurisdictions and receive confirmation within a few business days. Similarly, the NAIC's State-Based Systems (SBS) is a web-based system provided at no cost to state insurance departments to support the full life-cycle of regulatory activities, including licensing, consumer services, enforcement, product approvals and revenue management.

While the NAIC's efforts to achieve uniformity in producer licensing have been enhanced greatly by the grassroots efforts of Coalition members, the NAIC has asked the trades on numerous occasions to outline a set of uniform, national professional standards for their constituents—to specify the professional standards they would agree to be measured by and perhaps have endorsed by each of the national trades for communication and promotion among their memberships. Each time the trades have indicated that they believe their respective codes of conduct are appropriate in their current form, and that they see no benefit, value or need to develop a common set of professional standards. They state that they would prefer instead a few key fixes, including reciprocity in all states and "streamlining" (which the NAIC interprets as "elimination") of business entity licensing.

We are providing this extensive detail on our efforts as a demonstration of our commitment and accomplishments in modernizing insurance oversight directly. It is exactly this type of effort that will be derailed if federal reform options are pushed on the states without consideration for the structures already in place. As you can see, there are systems and technologies in place now, at no cost to the federal government, which greatly improve the efficiency of the state system. If there is a criticism of those efforts, it is that not all jurisdictions take advantage of these programs, so we ask Members of Congress to work with us to identify the reasons for that and focus on ways to modernize without a new federal agency.

Interstate Compact

The interstate compact is a significant reform option developed by state regulators and the NAIC. The compact addresses the life insurance industry's call for a central point of filing and product approval, while maintaining state market conduct enforcement. You will hear more about the compact from its executive director, Fran Arricale, but I can tell you that enabling legislation is pending in New York and it is something we are seriously considering.

A New Regulatory Framework for Reinsurance

The NAIC is actively developing a new regulatory framework for the supervision of reinsurance. We recognize that reinsurance is a business to business market that is global and sophisticated. Our goal is a single point of entry for U.S. and non-U.S reinsurers. The focus of the new framework would be on broad-based risk and credit criteria, and not solely on U.S. licensure

status. The proposal calls for creating a new division within the NAIC to serve as the foundation for a risk-based evaluation of reinsurers. The evaluation would cover such key factors as financial strength, operating integrity, business operations, claims-paying history and management expertise. The NAIC's Reinsurance Task Force is developing recommendations regarding the structural changes necessary to carry out the recommended shift in the overall framework of U.S. reinsurance regulation. We would happy to provide an update to Congress on the Task Force's progress.

Company Licensing

The states have made great strides in streamlining company licensing, and that progress was recently put to the test. The NAIC's Uniform Certificate of Authority Application (UCAA) process has transformed the manner in which companies file for admission in multiple states by providing a uniform format. The NAIC has further simplified the process by making the necessary applications and forms available on its website and by publishing the UCAA Manual, which contains instructions and examples of completed forms. All fifty states plus D.C. accept the UCAA forms in hard copy, and 45 states can accept them electronically.

The recent bond insurance crisis, in which the New York Insurance Department took a leading role, demonstrates the success of this program. In short order, 48 states have reviewed and approved Berkshire Hathaway Assurance Corporation's application for licensure as a bond insurer.

Let me explain just how quickly that happened. I asked Berkshire to apply for a New York license on or about November 15. The company filed with New York on November 30 and had a New York license on December 30. As of today, only four and a half months after Berkshire first filed with us and about three months after we asked the NAIC to expedite the process, Berkshire is licensed in 48 states. That is remarkable.

Processing Rate and Form Approvals

Foremost among the arguments for an optional federal charter has been the purported slowness by state regulators in processing rate and form approvals. The facts just don't bear that out. In fact, they show the exact opposite. State regulators have greatly increased market efficiencies while maintaining consumer protections. All fifty states are currently using our electronic rate and form

filing system, SERFF, along with the District of Columbia and Puerto Rico, along with nearly 3,000 companies. Several states have mandated its use. In 2007, SERFF received 381,377 filings, an increase of 41% over 2006 filings. And little wonder—a SERFF filing can be submitted for as little as $6 and offer companies significant cost savings by reducing or eliminating long distance telephone charges, copying, postage and other related expenses.

Analysis of Insurer Owned Investments

For over 100 years, the NAIC Securities Valuation Office (SVO), headquartered in New York City, has served the national regulatory community as an independent source of investment expertise. SVO is staffed with financial analysts, (many of whom have advanced degrees and/or CFA distinctions), economists, researchers, lawyers, appraisers, accountants and regulatory liaisons. They provide analytical tools and products to ensure that state insurance regulators have access to unbiased information about investment risks and their potential impact on insurers. Funded by fees assessed on insurance company investors, the SVO is comparable to a smaller scale nationally recognized statistical rating organization.

SVO research staff monitors economic developments, performance of specific securities or asset classes and innovations in the financial markets. With this monitoring they can alert regulators of the potential implications for insurance companies. The SVO credit units continually assess the credit risk associated with unrated securities, which serves as the basis for calculation of regulatory capital needed to support those investments. SVO valuation services are available to insurance departments upon special request and to insurers on an ongoing basis. The SVO Portfolio Analysis Memorandum analyzes the content of an insurer's investment portfolio, providing regulators with a valuable examination planning tool. These tools and information help regulators understand the investment marketplace and its impact on insurers.

Analyzing a Principles-Based Reserving Approach

New York is at the forefront of state insurance regulators who are leading the discussion on a valuation approach that is called principles-based, but is in fact based on an individual company's actual experience to set reserves rather than being forced to use formulas that may be totally unrelated to that experience. This discussion is consistent with efforts underway by our foreign colleagues. Financial regulation of the life insurance industry has traditionally relied upon the use of prescribed mortality tables, interest rates and application of the Standards Valuation Law, a formula-based approach, to verify that life insurers have established adequate reserves. The goal

of an experience-based approach is to more accurately allocate capital to reserves and surplus based upon specific risks and the experience of each individual insurer. The NAIC has created the Principles-Based Working Group, reporting directly to the NAIC Executive Committee, because the organization believes this is an important strategic issue for state insurance regulators and the insurance industry.

Efforts to Streamline Market Regulation

State insurance regulators continue our efforts to improve efficiencies in key functions of market analysis, uniformity and collaboration. We are working together to enhance the utility and automation of uniform questions used by market analysts to analyze specific companies. Twenty-four states are currently participating in the Market Conduct Annual Statement process, an initiative designed to improve the collection of information for certain key market performance issues and thereby eliminate multiple requests to insurers for the same information.

State insurance regulators have coordinated multi-state regulatory efforts through the Market Analysis Working Group. Those efforts culminated in a multi-state settlement with insurance regulators from 48 jurisdictions regarding inappropriate life insurance sales to members of the Armed Forces.

U.S. Insurance Regulation Promotes Global Competitiveness

Another favorite theme of OFC proponents is that state insurance regulation somehow impedes global competitiveness. Here are the facts:

- The United States has the largest and most competitive insurance market in the world.
- U.S. consumer, solvency and transparency standards are a model for developing markets.
- The NAIC is leading efforts to develop international standards of insurance regulation.
- State insurance regulators regularly collaborate with the federal government on issues of global financial stability and market access.
- The NAIC engages consistently with its foreign regulatory counterparts to develop international regulatory standards and promote sound U.S. regulatory standards.
- The NAIC aids in establishing sound regulatory regimes in developing countries that ensure stable, open and competitive insurance markets for U.S. companies.

The NAIC holds key leadership positions in major international bodies of financial regulators, such as the International Association of Insurance Supervisors (IAIS), which represents insurance regulators worldwide. The NAIC is leading the effort with regulators from around the world to create global standards and to minimize differences in fundamental areas of insurance regulation.

The NAIC contributes actively to the work of the Joint Forum, where banking, securities and insurance supervisors tackle cross-sectoral regulatory issues, and the Financial Stability Forum, where finance ministers from the world's largest economies address financial sector developments that could threaten global economic stability.

The NAIC serves as a technical expert for federal agencies—such as the U.S. Trade Representative and the Departments of Treasury and Commerce—in developing financial policy and pursuing U.S. trade objectives, including implementation of the North American Free Trade Agreement (NAFTA) and the General Agreement on Trade in Services (GATS).

Since 1999, the U.S. has held semiannual NAIC-EU Regulatory Dialogues to address issues affecting transatlantic insurance, leading to negotiation of an MOU on information exchange and discussions on supervision of reinsurance, critical for spreading insurance risk around the world. Similar exchanges have taken place with Japan, India, Brazil, Russia, Switzerland, Latin America and China—from which the NAIC's leadership team is just returning after concluding meetings with Chinese regulatory officials.

There is no denying that domestic insurance companies will need to increasingly compete with foreign companies for the business of U.S. consumers. While some foreign companies may avoid effective U.S. state oversight, we would note that the tax code is a far more compelling reason to remain "offshore" than any compliance inefficiencies that may exist among the states. State insurance regulators have no interest in trading proven effectiveness for minimal gains in efficiency, and lowering the quality of oversight in an attempt to attract more companies is exactly the kind of race to the bottom that your constituents cannot afford.

State Insurance Regulator Involvement at the Federal Level

Another baseless claim is that state insurance regulators don't have a "seat at the table" comparable to that of their federal banking and securities counterparts. In fact, state insurance

regulators interact with their federal financial regulatory counterparts and other federal entities on a regular basis.

The NAIC is a member of the Financial and Banking Information Infrastructure Committee (FBIIC), which reports to the Department of Homeland Security and the Office of Cyberspace Security. FBIIC is charged with coordinating efforts across the financial services sector to improve the security and reliability of the infrastructure necessary for financial markets to function. The NAIC also actively participates in meetings of the Financial Stability Forum (FSF), representing the U.S. and international insurance sectors in meetings with banking and securities regulators from the world's largest economies and those sectors' representative bodies.

The NAIC is a member of the U.S. Department of Treasury's newly formed National Financial Education Network, composed of federal, state and local government organizations for the purpose of advancing financial education for consumers. The Treasury Department selected the NAIC to participate after reviewing the NAIC's premier consumer outreach campaign *Insure U* (www.insureuonline.org) and its "virtual" curriculum based around specific life stages.

State insurance regulators have entered into MOUs with a number of federal agencies to facilitate information sharing. The NAIC is working with the Centers for Medicare and Medicaid Services (CMS), and recently drafted an MOU for states to share complaint information regarding health insurance plans and producers. The NAIC has worked with the U.S. Department of Health and Human Services, CMS and Congressional staff on a variety of issues raised by states as they create long-term care partnership programs. We have also provided testimony and other technical assistance to address Medicare prescription drug implementation issues identified by state insurance regulators in working with consumers and companies during the roll-out period.

The NAIC and its members have been working closely with the U.S. Department of Defense to facilitate information sharing and to protect military personnel and their families from improper sales of insurance and investment products on military bases.

These efforts are all important but it is clear that all regulators, state and federal, need to actively coordinate to develop a holistic, systemic view of the financial sector. The U.S. Department of the Treasury has put forward a proposal with that in mind. While we disagree with its call for an optional federal charter, we do agree that better coordination is necessary. State insurance

regulators have the expertise and the information necessary to offer federal officials a view into our segment of the financial sector so that broad-based economic decisions are not made in isolation.

Conclusion

Insurance oversight in the U.S. is strong and it continues to evolve. States have made great strides in developing tools that can be leveraged to realize the efficiencies necessary for a competitive environment, while preserving states' front-line strength of consumer protection. Congress should look past the rhetoric of a "patchwork system" to see that it is far more efficient and coordinated than proponents of an optional federal charter would have you believe.

However, there may be areas where federal assistance is necessary to realize the objectives and principles we have put forward today. We are working actively to consider specific, structural models for the best way to realize these principles, and we ask for your help in maintaining a system of oversight that is good for companies and good for consumers.

Thank you for the opportunity to testify, and I would be happy to answer your questions.

Independent Insurance Agents
& Brokers of America, Inc.

STATEMENT OF TOM MINKLER
ON BEHALF OF THE
INDEPENDENT INSURANCE AGENTS & BROKERS OF AMERICA

BEFORE THE

SUBCOMMITTEE ON CAPITAL MARKETS, GOVERNMENT SPONSORED ENTERPRISES, AND INSURANCE

COMMITTEE ON FINANCIAL SERVICES

UNITED STATES HOUSE OF REPRESENTATIVES

April 16, 2008

Good afternoon Chairman Kanjorski, Ranking Member Pryce, and Members of the Committee. My name is Tom Minkler, and I am pleased to be here today on behalf of the Independent Insurance Agents and Brokers of America (IIABA) to provide our association's perspective on insurance regulatory reform, particularly H.R. 5611, the National Association of Registered Agents and Brokers (NARAB) Reform Act. I am currently Chairman of the IIABA Government Affairs Committee and was recently elected to IIABA's Executive Committee. I am also President of Clark Mortenson, a New Hampshire-based independent agency with 51

employees that offers a broad array of insurance products to consumers and commercial clients across the country. Specifically, I am licensed to do business in nine states.

IIABA is the nation's oldest and largest trade association of independent insurance agents and brokers, and we represent a network of more than 300,000 agents, brokers, and employees nationwide. IIABA represents small, medium, and large businesses that offer consumers a choice of policies from a variety of insurance companies. Independent agents and brokers offer a broad range of personal and commercial insurance products.

Introduction

From the beginning of the insurance business in this country, states have carried out the essential task of regulating the insurance marketplace to protect consumers. However, there is little doubt that the current state-based insurance regulatory system should be reformed and modernized. At the same time we must keep in mind that the current system does have great strengths – particularly in the area of consumer protection. State insurance regulators have done an excellent job of ensuring that insurance consumers, both individuals and businesses, receive the insurance coverage they need and that any claims they may experience are paid. These and other aspects of the state system are working well.

As we have for over 100 years, IIABA supports state regulation of insurance – for all participants and for all activities in the marketplace – and we oppose any form of federal regulation, optional or otherwise. Yet despite this historic and longstanding support of state regulation, we do not believe the state system can appropriately and effectively address certain of its problems on its own. That is why we feel that there is a vital role for Congress to play in helping to modernize the state regulatory system and overcome the obstacles to reform that

currently exist; however, such an effort need not replace or duplicate at the federal level what is already in place and working well at the state level.

The most serious regulatory challenges facing insurance producers (agents and brokers) are the redundant, costly, and sometimes contradictory requirements that arise when seeking licenses on a multi-state basis, and the root cause of these problems is the failure of many states to issue licenses on a truly reciprocal basis. To rectify this problem, IIABA strongly supports H.R. 5611, the NARAB Reform Act, introduced in March by Capital Markets Subcommittee Members David Scott (D-GA) and Geoff Davis (R-KY). This legislation would streamline nonresident insurance agent licensing, but is deferential to states' rights – day-to-day state insurance laws and regulations would not be affected by this legislation. Given the strong bipartisan support for the NARAB Reform Act, there are already almost 30 cosponsors, we are excited about the prospects of this bill. I personally want to thank the Members of this Subcommittee who are cosponsors of the bill for their support, and we look forward to working with you on this important legislation.

I also want to mention briefly IIABA's support for H.R. 1065, the Nonadmitted and Reinsurance Reform Act, passed by voice vote by the House last summer, which would streamline and modernize the surplus lines and reinsurance markets. We thank Reps. Dennis Moore (D-KS) and Ginny Brown-Waite (R-FL) for their work on this bill. We believe that measures such as this legislation and the NARAB Reform Act would best promote uniformity and consistency and streamline insurance regulatory procedures from state to state, while protecting consumers and enhancing marketplace responsiveness.

Because the NARAB Reform Act was just recently introduced, I will take the opportunity today to explain the nonresident licensing difficulties currently encountered by insurance agents and explain how this legislation will help solve these problems. Pursuant to direction from the

Subcommittee, I will not go into detail about our opposition to other proposals for insurance industry regulatory reform. However, I would like to make the following very brief points about the Treasury Department's *Blueprint for a Modernized Financial Regulatory Structure* (Blueprint). Overall, IIABA strongly opposes the Blueprint's insurance recommendations, and we believe that the Blueprint seems primarily to take into account the interests of large financial businesses operating on a national or international basis at the expense of smaller Main Street businesses, such as independent insurance agents and smaller insurance companies. Specifically, we have significant problems with the Blueprint's proposal for the creation of an optional federal charter as well as its more expansive long term overhaul plan which would lead to mandatory federal regulation through a dual state and federal structure for state-chartered entities and a single federal structure for federally-chartered entities. Of immediate concern to IIABA is the Blueprint's recommendation of the creation of an Office of Insurance Oversight (OIO) within the Treasury Department. IIABA views the OIO as a serious threat to state insurance regulation because the Blueprint specifically envisions it as the intermediate step toward the creation of an optional federal charter. We believe that an OIO with authority to preempt state laws and implement their own regulations would negatively impact the state insurance regulatory structure. IIABA would be happy to address these concerns in greater detail at a later and more appropriate time.

The NARAB Reform Act

Insurance Producer Licensing Today

State law requires insurance agents and brokers to be licensed in every jurisdiction in which they conduct business, which forces most producers today to comply with varying and inconsistent standards and duplicative licensing processes. These requirements are costly,

burdensome and time consuming, and they hinder the ability of insurance agents and brokers to effectively address the needs of consumers. In fact, the current licensing system is so complex and confusing for our members that many are forced to retain expensive consultants or vendors in order to achieve compliance with the requirements of every state in which they operate.

Some observers of our industry mistakenly believe that most insurance agents operate only within the borders of the state in which they are physically located and that the problems associated with the current licensing system only affect the nation's largest insurance providers. The reality is that the marketplace has changed in recent decades, and the average independent insurance agency today operates in more than eight jurisdictions. There are certainly agencies that have elected to remain small and perhaps only service the needs of clients in one or two states, but that is no longer the norm. Our largest members operate in all 50 states, and it is increasingly common for small and mid-sized agencies to be licensed in 25-50 jurisdictions as well. For smaller businesses, which lack the staff and resources of larger competitors, the exorbitant cost and unnecessary complexity of licensing is especially burdensome.

Congress recognized the need to reform the industry's multi-state licensing system back in 1999, when it incorporated the original NARAB subtitle into the Gramm-Leach-Bliley Act (GLBA). GLBA did not provide for the immediate establishment of NARAB and instead included a series of "act or else" provisions that encouraged the states to reinvent and simplify the licensing process. In order to forestall the creation of NARAB, at least a majority of states (interpreted to be 29 jurisdictions) were required to license nonresidents on a reciprocal basis. To be deemed "NARAB compliant," GLBA mandated that states issue a nonresident license to any applicant who meets three simple criteria: (1) is licensed in good standing in his/her home state, (2) submits the appropriate application, and (3) pays the required fee. The act is precise and states that a nonresident licensing must be issued "without satisfying any additional

requirements." In short, GLBA required compliant states to accept the licensing process of a producer's home state as adequate and complete, and no additional paperwork or requirements would be required (no matter how trivial or important they may seem).

Unfortunately, true reciprocity remains elusive. Our diverse membership of small and large agents and brokers hoped meaningful and tangible reform was imminent following GLBA's passage and the subsequent enactment of at least elements of the NAIC's Producer Licensing Model Act (PLMA) by most jurisdictions, but we are still awaiting the promised benefits almost nine years later. Although Congress's action did spur some activity and modest state-level improvements, insurance producers have been disappointed by the lack of meaningful progress that has been made over the last decade.

The NAIC has once again identified producer licensing reform as a top regulator priority, but the organization has been unable to produce significant reforms. Their recent efforts – while appreciated and well-intentioned – have not focused on the most critical priorities and have instead generated only limited improvements on marginal issues. While the NAIC has cited the "progress" made in the licensing arena as one of its most notable success stories, our members remain frustrated by the many challenges and burdens they face and are increasingly impatient with the lack of actual progress. I have outlined some of the most prominent problems below.

Lack of Reciprocity

Despite assertions from insurance regulators to the contrary, many states have failed to embrace and implement licensing reciprocity. Both the GLBA and the NAIC's PLMA clearly establish the limits of what may be required of a nonresident applicant – *a nonresident in good standing in his/her home state shall receive a license if the proper application or notice is submitted and the fees are paid* – yet states continue to impose additional conditions and requirements. The imposition of these extra requirements makes it impossible for many

insurance producers to quickly and efficiently obtain and maintain the necessary licenses and violates the reciprocity standards established in federal and state law.

The NAIC maintains that approximately 45 states have met the reciprocity standard established in the GLBA, but the suggestion that so many states license nonresidents on a truly reciprocal basis would come as a surprise to the real-world practitioners who must regularly comply with the extra hurdles and requirements imposed by states. By liberally certifying states that impose such additional requirements, the NAIC misinterprets the reciprocity standard defined by Congress and undermines efforts to bring states into compliance with the letter and spirit of GLBA and the PLMA.

Duplicative Layers of Licensing Requirements

While most outside observers are aware that insurance agents and brokers must obtain a license in every state in which they operate, few recognize that nonresidents typically confront three layers of duplicative and redundant licensing requirements in each jurisdiction. Specifically, many insurance departments require nonresidents to (1) obtain an individual insurance license, (2) obtain a similar license for his/her agency, and (3) provide proof that the agency has registered as a foreign corporation with the Secretary of State, even when the state's corporate statutes impose no such mandate

In most states, corporate law does not apply foreign corporation registration requirements to insurance agencies, yet insurance departments often refuse to issue insurance licenses until such registration is completed. We were pleased when the NAIC recently took the position that insurance departments should (1) no longer require corporate registration to be in place in order for a nonresident to obtain and maintain a nonresident insurance license and (2) leave any enforcement of corporate law to the appropriate officials. IIABA was further encouraged in February when the NAIC stated, following the release of its Producer Licensing Assessment, that

14 of the 25 state insurance departments enforcing such a requirement had eliminated it and that other jurisdictions were planning similar action. The report even suggested that by year's end perhaps less than five state insurance departments would require registration in order for an agent to obtain or maintain a nonresident insurance license. However, we have since learned that some insurance departments claiming to have made this change are continuing to require insurance agencies to prove that registration has been completed, and we remain concerned by the lack of tangible progress in this area.

Inconsistent Implementation and Enforcement of the PLMA

Although the NAIC claims nearly every state has enacted the PLMA, the reality is that many of these jurisdictions have either not adopted all of the key provisions or enforce them in ways that run counter to the letter and spirit of the act. The model law is intended to provide a common statutory foundation to the licensing laws of every state, and its consistent adoption at the state level would establish licensing reciprocity and reasonable uniformity in key areas. Unfortunately, the NAIC's recently completed licensing assessment did not review the extent to which all states have enacted provisions of the model law or the extent to which states are consistently enforcing and implementing the law.

Barriers to the Effective Implementation of One-Stop Licensing

Both the regulatory and insurance producer communities have long identified the development of a one-stop licensing facility as a priority. The vision of one-stop licensing was outlined in May 2001 before this very Subcommittee during an oversight hearing examining the effects of the NARAB subtitle. Colorado Insurance Commissioner William Kirven, who co-chaired the NAIC's NARAB Working Group, stated that the regulators "want all jurisdictions to have a uniform application process where you simply file one application and you can get licensed in any State in the Union."

The National Insurance Producer Registry (NIPR), a non-profit affiliate of the NAIC governed by a unique public/private sector board of directors, has been working for more than ten years to achieve that goal. NIPR is intended to support the work of the states and the NAIC in reengineering, streamlining, and making uniform the insurance producer licensing process. While NIPR has made important progress and brought certain efficiencies to the marketplace, its accomplishments have been overstated by some and the objectives outlined by Commissioner Kirven remain unfulfilled. Many state insurance departments, for example, fail to participate fully with NIPR and do not offer the full range of services to the private sector that NIPR is able to provide. The NAIC's licensing assessment suggested that nonresident agents now possess the ability to obtain licenses in 46 states through NIPR, but a closer reading of the document indicates that insurance producers are only able to obtain and renew their necessary individual and entity licenses in fewer than ten jurisdictions.

The primary challenge facing NIPR is that its licensing systems must accommodate the requirements that are imposed by state law or by state insurance departments, and NIPR cannot realize its vision until states are reciprocal and the duplicative licensing problem has been addressed. H.R. 5611 would address these barriers to reform and allow for one-stop licensing.

Need for Congressional Action

Although the inclusion of the NARAB subtitle in the 1999 GLBA focused much-needed attention on insurance producer licensing and spurred some states to take action, insufficient progress has been made. Considerable problems continue to exist, and there is little reason to believe they will be satisfactorily addressed and rectified in the near future without targeted congressional intervention. State regulators have, at various occasions over the last nine years, asserted that licensing reciprocity and uniformity were imminent, but these numerous commitments and action plans have failed to deliver as promised. Our organization strongly

supports state insurance regulation and believes it provides many benefits, but state officials face hurdles, resistance, and collective action challenges that make us doubt that the states will be able to resolve these problems without assistance.

IIABA believes federal legislation is needed to bring about licensing reform. Our association has long asserted that the best method for addressing regulatory deficiencies is by enacting targeted legislation or federal legislative "tools" that establish greater interstate consistency and streamline redundant oversight. The use of targeted and limited federal legislation on an as-needed basis can improve rather than dismantle the current state-based system and in the process produce a more efficient and effective regulatory framework. This can be accomplished through enactment of a number of bills dealing with particular aspects of insurance regulation starting with those areas in most need of reform and where bipartisan consensus can be established. H.R. 5611 is an example of how this pragmatic, middle-ground approach can be utilized effectively.

Legislation Basics

The NARAB Reform Act, commonly referred to as "NARAB II," employs the NARAB framework first developed by the Congress in 1999 and utilizes the experiences and insights obtained over recent years to improve upon the concept. Some might argue that the original law was not sufficiently clear, failed to set the bar high enough, or enabled states to evade its reciprocity and uniformity objectives – but key improvements have been made to NARAB in H.R. 5611. Perhaps most notably, the NARAB Reform Act would immediately establish NARAB and provide agents and brokers with a long-awaited vehicle for obtaining and maintaining licenses on a multi-state basis. It eliminates barriers faced by agents who operate in multiple states, establishes licensing reciprocity, and creates a one-stop facility for those who require nonresident licenses. The bipartisan proposal benefits policyholders by increasing

marketplace competition and consumer choice and by enabling insurance producers to more quickly and responsively serve the needs of consumers.

H.R. 5611 ensures that any agent or broker who elects to become a member of NARAB will enjoy the benefits of true licensing reciprocity. In order to join NARAB, an insurance producer must be licensed in good standing in his/her home state, undergo a criminal background check (long a priority of state insuranee regulators but currently required by less than 14 states), and satisfy the independent membership criteria established by NARAB. These criteria would include standards for personal qualifications, training and experience, and – in order to discourage forum shopping and prevent a race to the bottom – the bill instructs the board to "consider the highest levels of insurance producer qualifications established under the licensing laws of the states." NARAB also would establish continuing education requirements comparable to the requirements of a majority of the states as a condition of membership, and the term of membership would be two years.

NARAB's simple and limited mission would be to serve as a portal or central clearinghouse for license issuance and renewal. A NARAB member agent would identify the state(s) in which he/she sought the authority to operate, and NARAB would collect and remit the state licensing fees back to the appropriate jurisdiction(s). States would be prohibited from denying a nonresident license to any NARAB member who correctly completed the process and paid the fees. NARAB would operate as a private, non-profit entity and would be managed by a nine-member board of directors comprised of state insurance regulators and private sector representatives, similar to the board structure employed by NIPR. NARAB would <u>not</u> be part of, or report to, any federal agency and would not have any federal regulatory power.

The NARAB Reform Act discretely utilizes targeted congressional action to produce marketplace efficiencies and is deferential to states' rights at the same time. H.R. 5611 merely

addresses marketplace entry and leaves regulatory authority in the hands of state officials. The bill does not affect resident licensing requirements or producers who are satisfied with the current system. H.R. 5611 enables NARAB to work in concert with state regulators and NIPR in a number of ways, and NARAB would possess the authority to utilize the databases and infrastructure developed by NIPR in recent years. H.R. 5611 does not displace state regulation and oversight of producers and instead achieves many of the public policy objectives that have been pursued by regulators.

Conclusion

IIABA believes that the NARAB Reform Act would improve the state-based system of insurance regulation by providing nonresident licensing reciprocity for NARAB members through a board of state commissioners and industry representatives. Again, the current state regulatory system has worked effectively to ensure insurer solvency and protect consumers (both individuals and businesses). However, the state-based system would benefit from reform in the area of agent licensing, and the IIABA believes that the NARAB Reform Act would best achieve this reform. NARAB II would build upon regulatory experience maintained at the state level and promote consistency, streamline procedures from state to state and preserve marketplace responsiveness. The result for all stakeholders would be a more efficient, modernized and workable system of insurance agent licensing. We therefore encourage the Committee to act expeditiously in its consideration of this important legislation.

UNITED STATES HOUSE OF REPRESENTATIVES

COMMITTEE ON FINANCIAL SERVICES
SUBCOMMITTEE ON CAPITAL MARKETS, INSURANCE AND
GOVERNMENT SPONSORED ENTERPRISES

Hearing on
"Examining Proposals to Reform Insurance Regulation"

April 16, 2008

Testimony of Lawrence H. Mirel
Wiley Rein LLP

On behalf of
The Self-Insurance Institute of America, Inc.

In support of House Bill
"Increasing Insurance Coverage Options for Consumers
Act of 2008"

Mr. Chairman and Members of the Committee, my name is Lawrence Mirel. I am an attorney at the Washington law firm of Wiley Rein LLP. From 1999 to 2005 I served as the Commissioner of Insurance, Securities and Banking for the District of Columbia. As an active member of the National Association of Insurance Commissioners I participated in many heated discussions on the subject of today's hearing. I am delighted that the Subcommittee is taking an in-depth look at various proposals for insurance regulatory reform and honored to be invited to participate.

I am here today on behalf of the Self-Insurance Institute of America, Inc. ("SIIA") to testify in favor of a newly introduced bill known as the "Increasing Insurance Coverage Options for Consumers Act of 2008."

SIIA is the country's largest non-profit association that represents companies involved in the self-insurance/alternative risk transfer marketplace. Its membership includes self-insured employers, captive insurance companies, risk retention groups, insurance entities, captive managers, third party administrators and other industry service providers.

The Liability Risk Retention Act of 1986 ("LRRA"), which the new bill would amend, was enacted for the specific purpose of providing options to businesses and non-profit organizations that were having trouble finding commercial liability insurance that suited their specific needs at prices they could afford. The insurance crisis in the early 1980s featured liability insurance of all kinds, and especially professional malpractice insurance. Doctors and hospitals, in particular, were facing great difficulty in obtaining suitable coverage, as traditional insurers, faced with a huge increase in the number and size of medical malpractice lawsuits, were seeking to limit their exposure or were exiting the business entirely. Congress responded to the crisis by expanding the previous Product Liability Risk Retention Act of 1981 to allow risk retention groups to offer all kinds of liability insurance, not just product liability coverage.

Today, there is new insurance crisis. Because of the devastation caused by Hurricane Katrina and other major storms in 2005, commercial insurers are reevaluating their exposure in areas of concentrated catastrophic risk and in

some cases are seeking to reduce their property insurance coverage in such areas. As a result, the cost of property insurance is rising everywhere and in some places is hard to obtain at any price. The problem is worse for commercial property than for private homes because some of the mechanisms created by states to ease the problem, such as the Texas wind pool and the Florida catastrophe fund, provide coverage only for residential properties. And despite Congressional action to provide a federal backstop for terrorism risk insurance, commercial property owners in certain "high risk" cities are also struggling with the cost of obtaining terrorism risk insurance in the traditional market.

This has led to a renewed interest in the possibilities offered by the alternative risk market, which includes all kinds of self-insurance mechanisms such as captive insurance and risk retention groups. These non-traditional insurance entities provide options that are not available through the commercial insurance market. Risk retention groups in particular provide a way for businesses and non-profit organizations that are engaged in similar kinds of activities and face similar risks to band together and collectively provide insurance coverage to their members. Currently these risk retention groups may only offer liability insurance to their members. The new bill would allow them to offer property insurance coverage as well.

I want to point out that the bill under consideration does not call for a government solution to the property insurance crisis. No new responsibilities would be undertaken by any agency of the federal or state governments and no taxpayer money would be put at risk. This bill would simply provide consumers with another competitive option to manage their risk exposure in a difficult environment where capacity is limited. It would empower commercial property owners in the private sector to come together to form risk retention groups that would provide property insurance protection to their members, in the same way that risk retention groups have been providing liability coverage for more than 20 years. As the Government Accountability Office ("GAO") said in its 2005 report on risk retention groups under the LRRA, risk retention groups have had an

"important effect on increasing the availability and affordability of commercial liability insurance for certain groups."

Over more than two decades the risk retention law has been a proven success. It did what it was supposed to do. It helped ease the problems caused by contractions in the traditional insurance market by providing incentives for organizations facing similar risks to band together to deal collectively with their insurance problems through a self-insurance mechanism, the risk retention group.

Even limited as they currently are to liability risks, risk retention groups still write more than $2.5 billion a year in coverage for their members. If the pending bill is enacted, and risk retention groups are able to offer commercial property insurance, we anticipate that in a few years the amount of insurance written by risk retention groups will more than double, providing much needed capacity to areas prone to catastrophic risk. While still a small proportion of the total amount of liability and property insurance written in the United States, a risk retention group offers a number of important incentives to its members:

- Policies can be written that more precisely fit the risks of the member entities. Risk retention groups offer their members "custom made" insurance plans instead of the "off the shelf" plans offered by commercial insurers.
- Underwriting can be geared to the actual risks of the member companies, instead of their risks being averaged with the risks of other kinds of entities that may in fact be very different. This more precise understanding of the risks that the members of a risk retention group are exposed, results in more precise and, in most cases, lower costs.
- A risk retention group allows more knowledgeable and professional risk management to take place, further reducing costs. A self insured hospital or group of hospitals can provide better management of its own risks than a commercial insurer can, if for

no other reason, than the realization that the money used to pay claims comes from the entities that are insured.

- Perhaps most important of all, the appeal of a risk retention group is that it can operate across state lines without having to be licensed in multiple jurisdictions and subject to overlapping regulatory authority. For an association of hospitals located in several different states, for example, or for an organization of churches that has facilities in every state and perhaps foreign jurisdictions as well, this ability to have a single regulator—the commissioner of insurance in the state of domicile—is a huge advantage, providing savings of money and time that can be better used to cover risk.

Insurance regulation is primarily designed to protect unsophisticated consumers of a complex product from being misled about what they are buying, or cheated when they try to collect under their policies for losses suffered. But risk retention groups, like other forms of self-insured entities, are the **providers** of their own insurance. They have designed their own policy, so they are not likely to be fooled about what is covered and what is not. When a loss occurs they are not likely to cheat themselves out of compensation. They are also not likely to overcharge themselves for their own insurance. For all of these reasons risk retention groups do not require the same regulatory scrutiny as commercial insurers that provide coverage to the general public.

Of course this assumes that risk retention groups are truly run by, and for, their members. The GAO report pointed out that sometimes risk retention groups are run by people from the outside who do not necessarily have the best interests of their members in mind. Therefore, the GAO recommended, and this bill provides, safeguards to make sure that risk retention groups are truly self-governing. The Self-Insurance Institute of America strongly endorses those provisions of the bill. By setting federal standards for the governance of risk retention groups the bill will provide uniformity and better consumer protection.

Most of the problems that risk retention groups have experienced have been the result of management that did not sufficiently appreciate and protect the interests of the member organizations that make up the group. This bill would both allow risk retention groups to offer a broader range of insurance coverages and would help ensure that they are truly run in the best interest of their members. It thus strikes the right balance of providing both opportunity and responsibility to those entities that use risk retention groups as a way of insuring themselves.

Risk retention groups have a single regulator for most purposes, and that regulator is a state official. It is important to point out that there is a real problem with the current way we regulate insurance in this country—and I say this as a former state insurance regulator: It is difficult to justify the expense and hassle that a multi-state insurance company has to go through to offer the same or similar products throughout the United States. This duplicative and overlapping review of the same products and the same services by 55 separate insurance commissioners makes little sense. There have been various proposals for regulatory reform, including bills that would establish a federal insurance regulator and others that would build on the LRRA model to allow for single state regulation. SIIA takes no position on which is preferable, but we are adamantly in support of the concept of a **single regulator** to replace the current inefficient and overlapping system under which insurers are subject to redundant regulatory supervision by more than 50 state insurance commissioners.

The history of the LRRA has demonstrated that a system that relies on a single regulator can be an effective and efficient model for regulatory reform. The Act provides that risk retention groups are regulated primarily by their domiciliary states, with only limited regulatory oversight by the states where the risk retention groups operate. The ability to operate across state lines, and even nationally, with a single primary regulator has been an important reason for the growth of risk retention groups. This concept has worked well for more than 20 years for those kinds of self-insurance entities that qualify as risk retention groups and for the limited kinds of insurance that they can offer. Given the success of these risk

management vehicles, there is no reason not to expand coverage options to commercial property.

The U.S. risk retention system works very well, but it does not work perfectly. Although the LRRA provides that a licensed risk retention group is exempt from most state insurance laws other than the laws of its state of domicile, and most non-domestic state regulators honor that requirement, some do not. In a recent case, a risk retention group licensed and regulated by the Montana Insurance Commissioner was the subject of a "cease and desist" order issued by the California Insurance Department. The risk retention group was successful in obtaining a preliminary injunction against the California Department. The court recognized that the LRRA prohibited exactly the kind of "second guessing" by the non-domestic state regulator that the California Department was engaged in[1] and there have been other decisions upholding the preemption provisions of the LRRA.[2]

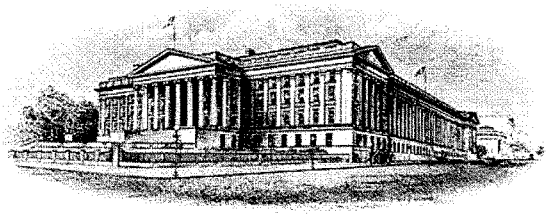
It is difficult, however, for risk retention groups to have to fight in court to uphold the law's preemption provisions when a state insurance commissioner decides not to abide by them. Therefore, we applaud the inclusion in this bill provisions that are designed to strengthen the preemption principle. These provisions will make it less likely that states will seek to thwart the clear intent of Congress by raising obstacles to non-domestic risk retention groups that operate across state lines. We are especially pleased that these provisions also include risk purchasing groups, because at least one court has drawn a distinction between risk retention groups and risk purchasing groups, holding that the preemption of regulatory authority by non-domestic regulators does not extend to the latter.[3]

---

[1] *Auto Dealers Risk Retention Group v. Poizner*, No. 07-cv-02660 (E.D. Calif. March 7, 2008).
[2] See *Nat'l Risk Retention Assoc. v Brown*, 927 F. Supp. 195 (M.D. La. 1996); *Attorneys' Liab. Assurance Soc'y, Inc. v. Fitzgerald*, 174 F. Supp. 2d 619 (W.D. Mich. 2001).
[3] *Fla. Dep't of Ins. v. Nat'l Amusement Purchasing Group, Inc.*, 905 F.2d 361 (11th Cir. 1990) (holding that risk *purchasing* groups, as opposed to risk retention groups, were not covered by the state preemption provisions of LRRA).

We applaud the subcommittee and especially the primary sponsors of this bill, Representatives Dennis Moore and Deborah Pryce, for recognizing the proven success of the Liability Risk Retention Act over more than two decades and for proposing to expand its scope to include commercial property insurance. Although the current crisis in the availability and affordability of commercial property insurance will not be solved by this bill alone, the expansion will allow property owners new options for coming together to deal collectively with their need to insure their property risks. This is a bipartisan bill and should not be considered controversial by anyone who understands and values the ability of people to come together to find market based solutions to common problems.

On behalf of the self-insurance community, thank you for letting me testify.



U.S. TREASURY DEPARTMENT OFFICE OF PUBLIC AFFAIRS

EMBARGOED UNTIL TIME 2:00 p.m. (EDT), April 16, 2008
CONTACT Jennifer Zuccarelli, (202) 622-8657

ASSISTANT SECRETARY DAVID G. NASON TESTIMONY BEFORE THE HOUSE COMMITTEE ON FINANCIAL SERVICE SUBCOMMITTEE ON CAPITAL MARKETS, INSURANCE AND GOVERNMENT SPONSORED ENTERPRISES

WASHINGTON - Thank you, Chairman Kanjorski, Ranking Member Pryce, and Members of the Subcommittee for inviting me to appear before you today to discuss the need for insurance regulatory reform.

Treasury's Blueprint for Financial Regulatory Reform

On March 31, the Treasury Department ("Treasury") released a report on financial services regulation entitled, "Blueprint for a Modernized Financial Regulatory Structure." The Blueprint reflects a year-long effort in addressing complex, long-term issues and ideas intended to provoke thoughtful discussion as we collectively work toward modernizing all sectors of the financial services industry. The Blueprint is not, and has never been, intended to be a response to recent stress in the credit markets, but rather is a series of Treasury's recommendations to improve our regulatory structure in the future.

The Blueprint presented a conceptual model for an optimal regulatory framework. This structure is an objectives-based regulatory approach, with a distinct regulator focused on one of three objectives—market stability regulation; safety and soundness regulation associated with government guarantees; and business conduct regulation. The regulation of all financial services products, including insurance, is addressed in the optimal regulatory framework.

Treasury's Blueprint also presented a series of "short-term" and "intermediate-term" recommendations that could, in our view, immediately improve and reform the U.S. financial services regulatory structure. Some of our recommendations focus on eliminating some of the duplication inherent in the U.S. regulatory system, but more importantly, they try to modernize the regulatory structure applicable to certain sectors in the financial services industry within the current framework – including insurance.

Today, I will address some of Treasury's recommendations with regard to modernizing insurance regulation in the near-term.

The Need for Insurance Regulatory Modernization

Insurance performs an essential function in our domestic and global economies by providing a mechanism for businesses and citizens to safeguard their assets from a wide variety of risks. Insurance

is similar to other financial services in that its cost, safety, and ability to innovate and compete are heavily affected by the substance and structure of its system of regulation.

Unlike banks and other financial institutions that are regulated primarily at the federal level or on a dual federal/state basis, insurance companies in the United States are regulated almost entirely by the states. The constitutional and statutory allocation of regulatory power between the federal government and the states has a complex evolution.

For over 135 years, states have regulated insurance with little direct federal involvement. In 1869, the U.S. Supreme Court concluded that the issuance of an insurance policy was not interstate commerce, and therefore outside the constitutionally permitted scope of the federal government's legislative and regulatory authority (Paul v. Virginia). In 1944, some 76 years later, the Court reversed itself holding that insurance was indeed subject to federal regulation and federal antitrust law (United States v. South-Eastern Underwriters Association). In 1945, before any assumption of federal regulatory authority over insurance, Congress passed the McCarran-Ferguson Act, which "returned" the regulatory jurisdiction over the business of insurance back to the states, and generally exempted the business of insurance from most federal laws unless they specifically relate to the business of insurance. While a state-based regulatory system for insurance may have been appropriate over some portion of U.S. history, changes in the insurance marketplace have increasingly put strains on the system.

Much like other financial services, over time the business of providing insurance has developed a more national focus even within the state-based regulatory structure. The inherent nature of a state-based regulatory system makes the process of developing national products cumbersome and more costly, thereby directly impacting the competitiveness of U.S. insurers.

There are a number of inherent inefficiencies associated with the state-based insurance regulatory system. Economic inefficiency appears to have resulted both from the substance of regulation (such as price controls), and also from its structure (multiple non-uniform regulatory regimes). Even with the efforts of the National Association of Insurance Commissioners (NAIC) to foster greater uniformity through the development of model laws and other coordination efforts, the ultimate authority still rests with individual states. For insurers operating on a national basis, this means not only being subject to licensing requirements and regulatory examinations in all states where the insurer operates, but also operating under different laws and regulations in each state.

In addition to a more national focus today, the insurance marketplace also operates globally with many significant foreign participants. A state-based regulatory system creates increasing tensions in such a global marketplace, both in the ability of U.S.-based firms to compete abroad and in the allowance of greater participation of foreign firms in U.S. markets. In particular, foreign government officials have continued to raise issues associated with having at least 50 different insurance regulators, which makes coordination on international insurance issues difficult for foreign regulators and companies. The NAIC has attempted to fill this void by working closely with international regulators on a number of projects. The NAIC itself is not a regulator but facilitates communications among the states on international regulatory issues. In the end, whatever the NAIC accomplishes in the international arena, given the NAIC's structure as a coordinating body and the inherent nature of the state-based system, it will be increasingly difficult for the United States to speak effectively with one voice on some international insurance regulatory issues.

A number of countries are pushing forward with regulatory systems seeking more uniform, efficient and stronger insurance sectors, in order to underpin more and better products for their consumers with less risk to the financial system. In particular, the European Union is working on its Solvency II project to forge one insurance market for all of its member states. The interaction between the U.S. regulatory system and its foreign counterparts in these types of discussions will likely impact the ability of U.S. firms to conduct business abroad and the flow of capital to the United States.

Treasury believes the fundamental question is whether our current state-based system of insurance regulation is up to the task of meeting the challenges of today's evolving and increasingly global insurance market. In other words, is the state-by-state regulatory approach, as chosen by the Congress in 1945, and as it exists today, still the most effective and efficient system for regulating an evolving insurance marketplace?

A number of reform proposals have been considered over the years to modernize the U.S. system of insurance regulation: total federal preemption; dual federal/state systems under an optional federal charter (OFC) approach; mandating national standards on the state-based system; and harmonizing and making more uniform regulation among the states. In Treasury's view, the establishment of a dual federal/state system with an OFC provides the best opportunity for the establishment of a modern and comprehensive system of insurance regulation.

Optional Federal Charter

The establishment of an OFC structure would provide insurance market participants with the choice of being regulated at the national level or continuing to be regulated by the states. Such a structure is broadly consistent with the current regulatory structure that applies to banks and other insured depository institutions. An OFC insurance regulatory structure should enhance competition among insurers in national and international markets, increase efficiency, promote more rapid technological change, encourage product innovation, reduce regulatory costs, and, importantly, provide high quality consumer protection.

Treasury believes that an OFC structure should provide for a system of federal chartering, licensing, regulation, and supervision for insurers and insurance producers (i.e., agents and brokers). It should also provide that the current state-based regulation of insurance would continue for those insurers not electing to be regulated at the national level. States would not have jurisdiction over those electing to be federally regulated. However, insurers holding an OFC could still be subject to some continued compliance with other state laws, such as state tax laws, compulsory coverage for workers' compensation, and individual auto insurance, as well as the requirements to participate in state mandatory residual risk mechanisms and guarantee funds.

The establishment of an OFC should incorporate a number of fundamental regulatory concepts. For example, the OFC should ensure safety and soundness, enhance competition in national and international markets, increase efficiency in a number of ways, including the elimination of price controls, promote more rapid technological change, encourage product innovation, reduce regulatory costs, and provide consumer protection.

Treasury also recommends the establishment of the Office of National Insurance (ONI) within Treasury to regulate those engaged in the business of insurance pursuant to an OFC. The Commissioner of National Insurance would head the ONI and would have specified regulatory, supervisory, enforcement, corrective action, and rehabilitative powers to oversee the organization, incorporation, operation, regulation, and supervision of national insurers and national agencies. The ONI could be required to integrate current portions of the state-designed body of regulation into the new national system, which would limit major disruptions to the marketplace.

There are currently pending bills in both the House (H.R. 3200) and Senate (S. 40) entitled the "National Insurance Act of 2007" that would create an OFC and establish an ONI. These bills contain many of the core concepts surrounding the establishment of an OFC structure. We look forward to evaluating further the specific provisions of these bills.

Office of Insurance Oversight (OIO)

While Treasury believes an OFC offers the best opportunity to develop a modern and comprehensive system of insurance regulation in the near term, we acknowledge that the OFC debate in the Congress is ongoing. At the same time, however, Treasury believes that some aspects of the insurance segment and its regulatory regime require immediate attention. In particular, Treasury recommends that the Congress establish an Office of Insurance Oversight (OIO) within Treasury. The OIO through its insurance oversight would be able to focus immediately on key areas of federal interest in the insurance sector.

The OIO should be established to accomplish two main purposes. First, the OIO should exercise newly granted statutory authority to address international regulatory issues, such as reinsurance collateral. Therefore, the OIO would become the lead regulatory voice in the promotion of international insurance regulatory policy for the United States (in consultation with the NAIC), and it would be granted the authority to recognize international regulatory bodies for specific insurance purposes. The OIO would also have authority to ensure that the NAIC and state insurance regulators achieved the uniform implementation of the declared U.S. international insurance policy goals. Second, the OIO would serve as an advisor to the Secretary of the Treasury on major domestic and international policy issues. Once the Congress does enact significant insurance regulatory reform establishing an OFC, the OIO could be incorporated into the OFC framework.

Conclusion

We appreciate the efforts of the Chairman and Members of the Subcommittee in evaluating issues associated with modernizing insurance regulation.

We look forward to continuing to work with the Congress toward finding an appropriate balance as proposals for dual federal/state regulation of insurance are considered. Thank you.

-30-

National Association of Professional Insurance Agents

Testimony of Donna Pile
Immediate Past President, National Association of Professional Insurance Agents

Before the
House Financial Services Subcommittee on Capital Markets, Insurance and Government-Sponsored Enterprises

Wednesday April 16, 2008, 2:00 PM
2128 Rayburn House Office Building

Regarding:
Examining Proposals on Insurance Regulatory Reform

Chairman Kanjorski, Ranking Member Pryce, and Members of the Subcommittee, thank you for giving me the honor of appearing before you today on behalf of PIA and our members, as you consider the various options to modernize America's insurance industry. We appreciate the thoughtful, deliberative manner in which you are discussing this complex subject.

My name is Donna Pile. I am an independent insurance agent and I own my own insurance agency, A.G. Perry Insurance in Lexington, Kentucky.

Last year, I had the honor of serving as president of the National Association of Professional Insurance Agents. In my year of service, I traveled throughout the United States visiting with some of the over 11,000 PIA agency owner-principals and their employees.

PIA is a national trade association that was founded in 1931, which represents member insurance agents and their employees who sell and service all kinds of insurance, but specialize in coverage of automobiles, homes and businesses.

PIA agencies provide their individual clients with personal lines insurance (such as homeowners and auto). In addition, they provide small-to-mid-sized commercial business clients with property and casualty and many PIA agencies offer life and health along with property and casualty products.

These agents are active business leaders in their communities and are in the unique position of working closely with insurance companies and consumers. Continuing to modernize the insurance regulatory system is an effort that PIA has been engaged in for many years.

Regulatory modernization is a vital issue for independent insurance agencies. Because of our role as the link between the insurance company and the consumer, all of the rules and regulations we follow must be clear. Otherwise, the insurance producer, and more

importantly, the consumer, suffers. We care deeply about having a modern and effectively regulated industry that fosters fair competition and protects consumers. Keeping up with the fast-paced business of insurance is something the states have shown they are better adapted to do than federal regulation for our industry.

One example of this we have seen is the tremendous progress that has been made recently on producer licensing.

PIA was one of the original trade associations that worked with the National Association of Insurance Commissioners (NAIC) and the National Conference of Insurance Legislators (NCOIL) to set up and fund a national electronic licensing system for producers. We realized early in the 1980s that an electronic system was the way of the future and testified in 1988 on producer licensing reform before the House Commerce Committee.

I can remember the days when producers had to submit a paper application to each insurance department in the states where they might conduct business. We are proud of what we accomplished in a relatively short amount of time, but we are by no means satisfied with the current system.

However, despite the progress that has been made, even today, everyone in the insurance business and state regulation knows all too well that there are still inefficiencies in the licensing system. All of us understand that we must resolve this issue over the next few years in order to complete the foundation of a new modern oversight structure. These remaining challenges currently mean that sometimes PIA agencies must hire additional help to track, process and maintain their several licensees across several states. In a small to mid size agency like mine, the unnecessary costs as a result of inefficient regulation can mean the difference between staying open and having to close up shop.

National Insurance Producer Registry

The future of producer licensing is a modernized, nationwide state-based electronic system, similar to the state securities regulators CRD, Central Registration Depository, licensing system. Just like the securities licensing system, the insurance producer licensing system was built and funded by the states and should remain under state control. The National Insurance Producer Registry (NIPR) has brought us from the old paper system to the modern age of electronic licensing. Through NIPR's non-resident licensing service, producers and insurers can apply for a non-resident license in 45 jurisdictions and receive confirmation within a few business days.

The important thing to remember when you talk about uniform licensing for insurance producers is that we already have a system that is up and running in almost all jurisdictions and can be completed in other jurisdictions soon. So, there is no need to build it again from scratch. The most substantial portion of the investment has already been made by the states.

If I am permitted a little baseball analogy, it's like this: The NIPR is the diamond that connects all the bases needed for a one-stop process for producer licensing. Right now, we have already rounded third base. Now all we have to do is hustle a little more before we can cross home plate.

Producer Licensing Reforms

As with all licensing matters, achieving an open borders, one-stop licensing system for insurance producers among the states requires a great deal of effort. This is something all PIA members are committed to. In order to get the few remaining states to participate in NIPR, we will work with our state legislators and regulators keep the progress going.

We are seeing real results of this work, as states are continuing to align with each other by implementing substantially similar licensing standards.

Modernization of an all-states insurance producer licensing system must align three areas:

1. State resident (Home) licensing laws.
2. State Nonresident licensing laws.
3. Central state system to support the multi-state system.

The Committee has requested PIA national to concentrate our comments today on the third item that comprises the NIPR system.

However, the following is a brief summary of the other two areas must be addressed at the same time to complete the last piece in the establishment of a modernized framework among the states through which insurance producer licensing will be managed.

The law framework for state insurance producer licensing is the Producer Licensing Model Act, developed by the NAIC in conjunction with insurance industry representatives, referred to as PLMA.

All states need to adopt the PLMA and interpret it in a similar manner. While we are far closer to our final goal than we were in 2000, the job has not gone as smoothly or quickly as we'd hoped. However, with NIPR we are now at the stage of being able to place the last piece of the puzzle.

Full utilization of NIPR will help producers know states' laws and practices are properly aligned so those of us who operate in several jurisdictions have a better certainty of our compliance obligations.

PIA National is reaching out to other industry associations with the goal of working out what few differences might still exist among us, so that a clear and uniform message from the insurance producer community is presented to our state authorities. The state affiliates and members of each of the national insurance producer trade associations must also carry this unified message. This has been the case for PIA.

No matter the path that one might wish to elect in order to "reform" insurance producer licensing system, the steps that we're undertaking in the states must still be done.

PIA National believes that the fundamental public purpose and obligation of all regulation is the safety and protection of the people. This includes supporting a sound and competitive marketplace, but it also requires oversight and enforcement of the sector's commercial participants so that the law is complied with for the benefit of the public. Uniform, electronic systems, like NIPR, assist regulators with their mandate to protect consumers by allowing them to police the marketplace in a more efficient manner. We have seen the states come on board with the modernization process because they see the benefits for their market and their consumers.

PIA National has been charged by our members to achieve regulatory modernization. The action plan that we've presented thus far delivers an immediate result specifically in licensing, it is constitutional, and is designed to be compatible with the overall, longer-term modernization of the oversight system.

PIA agencies are retail independent agencies that reach into all aspects of the insurance marketplace. They operate their agency businesses at the floor of the marketplace, working with all aspects, sectors and kinds of insurance products and providers. They operate in-state, across states, in federal programs such as NFIP and federal crop insurance, and deal with non-U.S. placements.

Therefore, PIA members need a system that aligns all the authorities to create a harmonized oversight system for all the various lines and types of insurance products and persons with which they deal in the comprehensive insurance marketplace.

Using the models designed by NAIC and embraced by state lawmakers in the compact and other reform models we've discussed, PIA National will pursue the formation of an insurance oversight mechanism that enhances states' ability to protect consumers through an Interstate Compact that incorporates NIPR.

Such a harmonized state system is close to accomplishment. PIA members, like most, want a modernized effective system. We are ready to work with you toward this goal.

Thank you very much for the opportunity to share PIA's perspective on this important issue. PIA members are "Local Agents Serving Main Street America." And for that reason, we look forward to continuing to work with the committee to find effective solutions to regulatory issues facing Main Street America's small businesses.

I would be happy to answer your questions.

STATEMENT OF ALASTAIR SHORE
ON BEHALF OF THE
AMERICAN INSURANCE ASSOCIATION
AND THE
AMERICAN COUNCIL OF LIFE INSURERS

BEFORE THE

SUBCOMMITTEE ON CAPITAL MARKETS, INSURANCE AND GOVERNMENT SPONSORED ENTERPRISES

COMMITTEE ON FINANCIALSERVICES

UNITED STATES HOUSE OF REPRESENTATIVES

HEARING ON

"EXAMINING PROPOSALS ON INSURANCE REGULATORY REFORM"

APRIL 16, 2008

Good afternoon. My name is Alastair Shore, and I am the Chief Underwriter of CUNA Mutual Group. CUNA Mutual Group is the leading provider of financial services to credit unions and their members worldwide, offering lending, protection, financial, employee and member solutions through strategic partnerships, technological innovations and multiple service channels. The mutual insurers of the CUNA Mutual Group are owned by their policyholders and operate to serve their best interests.

The pioneers of the credit union movement established the CUNA Mutual Insurance Society in 1935. It is the parent organization of all companies that together form the CUNA Mutual Group. In 2007, we paid out more than $1.4 billion in claims and generated $3.1 billion in revenue. We also managed $7.17 billion in assets for third-party clients, including member investments, credit union employee pension assets, and credit union assets.

I am here to testify today on behalf of CUNA Mutual Group and our insurance trade associations, the American Insurance Association (AIA) and the American Council of Life Insurers (ACLI). Like the other members of our trade associations, CUNA Mutual Group strongly supports Optional Federal Chartering (OFC) for insurance companies as the best alternative for modernizing and reforming the current state-based insurance regulatory system. We appreciate the opportunity to testify at today's hearing examining OFC and other proposals on insurance regulatory reform. And, I would like to thank the Subcommittee for the leadership it has taken in understanding the need for insurance regulatory reform and its commitment to finding the best solution.

We sincerely believe this analysis will lead the Subcommittee inescapably to OFC—a system that will provide a single regulatory authority for insurers that choose to be regulated at the federal level, while keeping the state-based regulatory system in place for companies that choose to remain state-regulated. An OFC, as set forth in the National Insurance Act of 2007 (H.R. 3200 or NIA), represents our best opportunity to advance regulatory modernization in a manner that works for consumers, the industry, and the economy.

At its core, the NIA is a strong consumer protection bill, which focuses on a robust centralized system that emphasizes safety, soundness and consistent market conduct regulation. These consumer protections are reinforced through separate consumer affairs and insurance fraud divisions and a new federal ombudsman. Together, these regulatory powers will create a presence that can more quickly respond to consumers than the current, fragmented state regulatory system.

The issue of insurance regulation, once thought to be the province of isolated industry practitioners and regulators, is now central to many of the critical public policy debates over the direction of the financial services sector and the U.S. economy. Insurance regulation, specifically OFC, is featured prominently in the Treasury Department's recently released Blueprint for a Modernized Financial Regulatory System. As you know, the Treasury Blueprint recommends the establishment of a federal insurance regulatory structure to provide for the creation of an OFC system. We strongly support Treasury's view that an OFC would play an important role in the new world of integrated and interconnected financial markets, and would address the increasing cost and efficiency burdens that our disjointed state insurance regulatory system imposes on insurers and consumers alike.

The Treasury blueprint also recognizes the important role that the insurance industry now plays in our new financial world. Insurers, banks and capital market investors (which in the past operated in largely separate markets) are now offering products that may be substitutes for each other, and there also is a trend toward one-stop shopping for finance and risk management needs. Insurers must have a regulatory system that adapts to market realities and allows them to compete on a level playing field and to serve the evolving needs of their policyholders.

Moreover, the turmoil that has recently roiled the financial services sectors highlights the interconnectedness of our financial system and the importance of insurance to the proper functioning of that system. This is precisely the time to enact regulatory reforms that strengthen solvency oversight and foster a more competitive regulatory environment for insurers at the federal level. Waiting will make it more difficult to correct existing problems and runs the risk that policyholders may suffer in time of loss.

An OFC will greatly improve insurers' ability to provide essential financial protection to the millions of policyholders who rely on insurance payments when faced with loss. Insurance helps individuals and businesses to assume the risks that are inevitable in life and business, with the security of a strong financial safety net in place when loss occurs. Without insurance, and a sound regulatory structure to promote its benefits, societal innovations and advancement become more risky and less likely to become reality.

The Critical Need for Insurance Regulatory Reform

The current state insurance regulatory system basically reflects a system that began in the 19th century and continued to grow as a result of the McCarran-Ferguson Act. That law was enacted in 1945 largely to deal with federal antitrust and state tax concerns arising from a 1944 U.S. Supreme Court determination that insurance was a product in interstate commerce and, therefore, subject to federal authority.

McCarran is a power-sharing statute that reflects Congress' considered judgment to delegate – *not abdicate* – its authority over insurance to states that regulate the business of insurance themselves. In doing so, McCarran recognizes that Congress has the right to intervene in insurance regulatory matters by enacting specific federal laws.

Under McCarran, the states have put in place sweeping and stifling regulatory regimes that dictate what products insurers can provide, how much they can charge for these products, and how they conduct even the most routine aspects of their business. The result has been a regulatory scheme that: 1) is lacking uniformity or efficiency for insurers or their customers; 2) reflects assumptions about the insurance industry and its consumers that are grounded in the 19th century and are far from accurate today; and 3) is unduly focused on government intrusion in the market, particularly in the area of insurance rate and form oversight.

It has been apparent for a long time that the current state insurance regulatory system is costly and inefficient with respect to time lost and money spent to comply with a patchwork of antiquated and inconsistent state requirements. Ultimately, the consumer pays for this

inefficiency through higher costs, reduced product offerings, and less consumer choice. An OFC system can provide strong, centralized financial oversight and consumer protection regulations and examinations that are tailored to real problems facing consumers with respect to consumer education, policy disclosures, claims, and other issues.

Additionally, the unwieldy regulatory system is contributing to the outflow of risk-bearing capital from the U.S. to jurisdictions with more rational, predictable and efficient regulatory systems. This does not bode well for the long-term health of the country's domestic insurance industry. According to two major reports on global competitiveness in the financial services industry (Schumer/Bloomberg and the U.S. Chamber), U.S. insurers wishing to operate on the world stage are hampered by restrictive regulation that their foreign competitors do not face. As a result, the flow of new capital in the insurance industry is moving in one direction—away from the U.S. Virtually all of the new capital that is now securing U.S. risks is domiciled in jurisdictions that provide more centralized, efficient and uniform regulatory systems. OFC would allow the new capital providers (and all U.S. insurers) with a choice of a centralized regulatory system that permits them to remain onshore, thus enhancing, rather than impairing, the competitiveness of the U.S. insurance industry in our global economy. Creating such a system for insurers would mirror the one that has been in place for the banks and credit unions, and which has overall served both the nation's citizens and economy very well.

Moreover, the choices facing capital providers will become further restricted as our international trading partners move to develop more streamlined insurance regulatory models that threaten to leave the U.S. even farther behind. One such development involves the introduction of risk-based insurer solvency requirements across the European Union, through an initiative that is

known as "Solvency II." The new solvency requirements will be more risk-sensitive and more sophisticated than in the past, thus enabling better tracking of the real risks run by any particular insurer, while at the same time encouraging competition and innovation. As a result, trade experts believe that Solvency II will enhance the international competitiveness of EU insurers to the detriment of their U.S. peers. U.S. insurers cannot be easily integrated into Solvency II because the U.S. does not provide supervision equivalent to that of the EU. Because it is merely a committee of well-intentioned, individual state supervisors and not a national regulatory body that can guarantee uniformity and consistency, the NAIC cannot adequately address this situation. As noted in a recent analysis of Solvency II by Standard and Poors, "in the absence of supervisory equivalence, non-EU insurers may find themselves operating at a competitive disadvantage in Europe." U.S. insurers are also concerned that the growing cohesiveness of the EU under Solvency II will yield cost and efficiency benefits for EU insurers that cannot be realized under the highly fragmented state system in the U.S.

A Better Regulatory Alternative

For these reasons, we strongly support the National Insurance Act of 2007 (H.R. 3200), introduced last July by Reps. Melissa Bean (D-IL) and Ed Royce (R-CA), along with its Senate counterpart (S. 40). For national companies, an optional federal charter would displace the current multi-state patchwork regulatory system with a framework for uniformity, consistency, and clarity of regulation that is focused on consumer needs and protection.

We need a new regulatory alternative based on a rational and efficient reallocation of regulatory resources to focus uniformly on the most critical aspects of the insurance safety net and

consumer protections, and not on regulatory red tape and government decisions concerning the "appropriate" rate for an insurer to charge or the "appropriate" insurance policy to offer to consumers. The new system must replace the current conflicting state requirements with regulatory uniformity for insurers operating at the multi-state or national level. H.R. 3200 embodies all of the elements of this paradigm and represents the best approach for Congress to move forward in advancing reform.

H.R 3200 does not regulate prices charged or products offered by market participants, because it recognizes that governments, acting unilaterally in these areas, cannot be effective surrogates for the free market. As noted in the Treasury report, "while numerous arguments have been made to justify rate regulation, they are unpersuasive." States that do not impose onerous regulatory controls enjoy vigorous competition, healthy markets, and stable overall rates. According to a recent ConsumerGram published by the American Consumer Institute, consumers living in states with high levels of insurance regulation pay hundreds of dollars more per year than consumers living in states with less insurance regulation.

Although H.R. 3200 effectuates a fundamental shift in regulatory application, it also proposes to put in place a regulatory oversight regime as strong, or stronger, than any found in an individual state today. Contrary to what detractors will offer, it does not preempt state premium tax regimes or abandon aspects of the state system that are necessary for consumer protection. It also recognizes that there will always be a need for markets of last resort – so-called "residual markets" – and that national insurers must participate in those markets mandated by state law.

To bolster the consumer approach of OFC, H.R. 3200 establishes stronger, re-focused regulation in those areas where regulation is necessary to protect consumers as they both navigate the marketplace and turn to insurers for payment of covered claims. Above all, enactment of H.R. 3200 will assure that insurance company solvency remains strong despite the ever-changing nature of risk. The Act also establishes both a federal ombudsman to serve as a liaison between the federal regulator and those affected by the regulator's actions, as well as consumer affairs and insurance fraud divisions to provide strong consumer service and protection.

Over the long-term, it is our view that a federal regulatory option, structured in the way set forth in H.R. 3200, will modernize regulation of the industry, empowering consumers and emphasizing market conduct and financial solvency oversight in the process. In creating these needed systemic reforms, the Act will consolidate regulation into a single uniform point of enforcement for those that choose the federal charter, without forcing change for those remaining in the state system.

The Critical Need to Move Forward

Insurance regulatory reform is a critical imperative that will determine the long-term viability of one of our nation's most vital economic sectors, and help define how our economy manages risk in the future. The choice is between the existing state regulatory bureaucracy grounded in the 19th century or a new approach that relies on individual choice, competition, and the evolution of our customers' needs in a 21st century global economy.

As the committee considers reform of the current system, we believe that the three basic principles that define the optional federal charter approach in H.R. 3200 must be followed:

- ✓ establish uniform, consistent, and efficient regulation; and
- ✓ focus regulation on those areas where government oversight protects consumers in the marketplace, such as financial integrity and market conduct, rather than on those activities that distort the market, such as government price controls and hostility to innovation; and
- ✓ place primacy on the private market, not regulatory fiat, creating an environment that empowers consumers as marketplace actors.

Creating an optional federal charter is imperative to meet the needs of customers and insurers alike. We appreciate the Subcommittee's interest in this important subject and look forward to working with the Subcommittee to improve our nation's insurance regulatory system.

Testimony before the U.S. House of Representatives

Financial Services Subcommittee On Capital Markets, Insurance and

Government Sponsored Enterprises

on the subject of "Examining Proposals on Insurance Regulatory Reform"

Wednesday, April 16, 2008, 2 p.m.

Rayburn Office Building, Room 2128 , Washington, DC

"We Need One Federal Insurance Regulator To Restore Consumer

Confidence and To Provide Federal Oversight In A Global Industry "

Presented by:

Eric D. Gerst, Esquire

Newtown Square, Pennsylvania 19073

Phone (610) 420-8598 Fax: (610) 325-9740

e-mail: egerst@gerstlegal.com

website: www.gerstlegal.com

Chairman Kanjorski, and Distinguished Members of the House Financial Services Subcommittee On Capital Markets, Insurance and Government Sponsored Enterprises, and staff: Thank you very much for giving me the opportunity to present testimony to you today.

My name is Eric D. Gerst. I am an attorney, and have been practicing law for more than 30 years. I am a member of the Philadelphia, Pennsylvania and Washington, DC bars. I'm also a member of the American Bar Association Tort Trial and Insurance Practices Section (TIPS), and have been admitted to practice before the United States Supreme Court . A significant part of my practice, besides transportation law, has been in the area of insurance law, representing businesses and individuals in the industry, as well as those outside of it. I am presenting this statement on my own behalf, as a taxpayer and as an insurance policy holder, and not as a representative of any particular organization or association. I have recently written a book on the serious problems of the insurance industry, and how to fix them. The book has just been published by AMACOM, the publishing arm of the American Management Association and should be in the bookstores nationwide and available on line within the next few weeks.[1] It discusses the very items -- reform of the insurance regulatory system -- for which Congressman Kanjorski's subcommittee is holding a hearing today. I

[1] The book is entitled "*Vulture Culture: Dirty Deals, Unpaid Claims, and the Coming Collapse of the Insurance Industry*", by Eric D. Gerst Esq., and has been published by AMACOM, NY, the publishing arm of the American Management Association .

offer suggestions in the book on how to reform the system, and offer suggestions to you today.

Mr. Chairman, and Members of the committee: The serious problems of the insurance industry have caused anger and concern in Congress, an erosion of trust among consumers, and embarrassment for many of the good people working in the insurance industry. If not corrected, this could cause a collapse of an important industry, one of the backbones of our economy .

To reverse the progression, restore the confidence of the consumer, and create a better industry, fair to consumer and insurer alike, the House committee has correctly identified the need for insurance regulatory reform as the most critical element . In doing so, it properly is seeking comments from not only industry, but from knowledgeable private citizens.

I have studied the regulatory options available, and I strongly urge that we change from the 50-state system of insurance regulation under which we have been operating for more than one half a century, pursuant to the McCarran Ferguson Act of 1945[2], and in its place, create a federal insurance regulator, one who operates pursuant a new law, which I have suggested be called the Uniform Federal Omnibus Insurance Law (UFOIL).

[2] McCarran Ferguson Act, 15 U. S. C section 1011 et seq

What would a Uniform Federal Omnibus Insurance Law (UFOIL) look like?

My suggestion for insurance regulatory reform goes beyond the currently proposed Optional Federal Charter, (whether it be the recent Bush administration "blueprint" announced by Treasury Secretary Henry M. Paulson Jr. [3] or the current Congressional proposals). -- the dual system where insurer can choose whether to be chartered and regulated by a state or federal regulatory authority , to be fashioned similar to the banking system. While the administration plan and the congressional bills introduced for OFC recognize the need for federal oversight, the plans falls short. While

[3] "*The Department of the Treasury Blueprint for a Modernized Financial Regulatory Structure*", Treasury Secretary Henry M. Paulson Jr., March 31, 2008. The plan called for reform of the banking, securities, and insurance industries.. The administration stated that "the inherent nature of a state-based regulatory system makes the process of developing national products cumbersome and more costly, directly impacting the competitiveness of US insurers... in addition to a more national focus today, he insurance marketplace operates globally with many significant foreign participants. As they-based regulatory system creates increasing tensions in such a global marketplace, both in the ability of US-based firms to compete abroad and in allowing greater participation of foreign firms in US markets..." The administration recommended the establishment of the Office of National Insurance (ONI) to be housed within treasury, headed by the commissioner of national insurance. The administration also recommends that Congress immediately establish an Office Of Insurance Oversight (OIO) within Treasury to promote US insurance regulatory policy in the international community and to act as an adviser to the Secretary of the Treasury on major domestic and international policy initiatives..
Legislative bills in 2008 Re: OFC include: National Insurance Act, S.2509, by Senators John Sununu (R--N.H.) and Tim Johnson (D-S.D.); and similar bill in the House. There have been extensive hearings on the OFC bills, but none has yet voted out of committee..

they make the need for federal oversight a cornerstone of the plan, the OFC plan creates a cumbersome duality, which will not work with the complex insurance industry.

My proposal for a federal regulator includes the following:

- Repeal or modification of the McCarran Ferguson Act
- Creation of a federal insurance regulator, and the deputizing of state insurance departments to carry out national insurance standards
- Creation of a uniform Federal law, compiling the best of each state's insurance statutes as a floor, with the ability of the states to add state legislation for specific state and regional issues)
- The NAIC and other qualified Associations could be advisers and assist in carrying out the federal law
- A revenue -neutral plan with no increase in cost to the taxpayer, and no basic change in revenue to the states (unless there were changed circumstances in the states).
- The law would include: increased transparency and greater protection for consumers (including a federal office of consumer advocate), as a well as proper market conduct, speedy

claims resolution, uniform licensing, entry and exit approval, international oversight, form and rate guideline approval, and stronger solvency, audit, guarantee and enforcement mechanisms.

- The underlying body of state tort and contract law would not be affected. .

I have created some sample legislative framework in the book, and which I would be happy to share with members of the committee, if requested.

There are basically four (4) options for insurance regulatory reform.. Option One is the status quo -- to do nothing and let the market sort it out -- hardly an option. Option Two is to create an interstate compact among all states. The NAIC has tried this over many years, and they have not been able to sign up all states, and may never be able to do so. Option Three, the Optional Federal Charter being proposed by the Bush administration and by several bills in Congress. will be cumbersome, confusing and overlapping, and would not work in the complex insurance area. Option Four, favored by this writer, is a single Federal Insurance Regulator, carrying out his or her duties pursuant to a Uniform Federal Omnibus Insurance Law (UFOIL)

Over the past decade, the insurance industry has been hit with a barrage of problems, to name just a few: surprise billion-dollar bankruptcies, international takeovers of US insurance companies without any federal government oversight ; criminal felony convictions of insurance executives for defrauding consumers through bid-rigging, and kickbacks; "gotcha" insurance policy clauses (if it is wind damage, we'll pay, but if wind ***and*** water, we won't) causing massive claim denials to Katrina-leveled homeowners; and billions of dollars in fines, settlements and refunds paid by major insurers and brokers to deceived consumers. [4]

The insurance consumer, seeing the constant negative images in the media regarding the industry's problems, and in many cases being directly affected, is losing confidence in the ability of his or her insurance company to give the customer the one thing being paid for: the "peace of mind" that the insurance company will be there to promptly pay when a legitimate

[4] To name just a few of the most glaring problems microphone: Reliance Insurance 's $4 billion bankruptcy, the largest in insurance industry; major overseas financial institutions acquiring US insurers without any federal approval, criminal felony convictions of executives from the largest brokerage and insurance companies(Marsh McLemnan, AIG, others) for steering business through bid-rigging, kickbacks and fraud; more than $1 billion recovered from some of the largest US brokers and insurers through, fines settlements, and repayments to deceived customers,; and most devastating, the almost daily media images of Katrina -- leveled homeowners (17,000 of them, at last count) standing on their house slab, still waiting for their insurance claim be paid, 2 1/2 years after the 2005 devastation.

claim is submitted. Consumers have been consistently dissatisfied with the lack of transparency, and lack of prompt resolution of their complaints through the current 50-state insurance regulatory system. Approximately 400,000 formal complaints (an average of 8000 per week) from dissatisfied insurance consumers are filed with the state insurance regulators annually, and the number of complaints has not dropped for years[5]. It is unknown how many of these complaints are ever resolved. That information is not available. State insurance regulators, however well intentioned, have been unable or unwilling to solve the problems. The National Association Of Insurance Commissioners (NAIC), the supervisory body for the industry, performs excellent services, but has no statutory or enforcement powers. The Government Accountability Office (GAO) has consistently criticized the state system as ineffective, with some criticism of problems going back 25 years, which still have not been corrected.[6]

Consumer loss of confidence in the insurance area, could become somewhat akin to the several bank panics at the turn of the last century, where there was a run on the banks by average citizens, fearful of a shaky

[5] Source: National Association of Insurance Commissioners(NAIC), Insurance Department Resources Report, published annually.

[6] Source: Government Accountability Office (GAO), various reports

banking system. Who would continue to invest his or her life savings in a bank, or in an insurance policy, for that matter, if there is a perception that when the money is needed, the institution or company can't or won't give it back, and there is a feeling that no one in the government is willing or able to act, to get the money back for the consumer? In the banking area, the government took decisive action and created the Federal Reserve in 1913, and the Federal Deposit Insurance Corporation (FDIC) in 1933, along with other safeguards. The government needs to create a perception and a reality of stability in the insurance industry.

Imagine the potential scenario if just one out of 10 nervous insurance consumers stops buying insurance: The $1.4 trillion annual revenue base[7] currently enjoyed by the US insurance industry, would shrink by 10% -- a $140 billion drop in annual revenue. An impact of that size could cause some insurance companies to go under, or to take drastic measures: increase premiums to the remaining customers, increase deductibles, offer less benefits under the policies, create barriers to processing a claim, engage in questionable claims settlement techniques, create more litigation, or any or all of the above.

[7] Source: National Association of Insurance Commissioners, 2006, published 2007, Insurance Department Resources Report, Latest Statistics Available

One should remember that the purchase of insurance is optional, not mandatory, except if you're carrying a mortgage, or driving an auto, and some other instances where it could be a requirement. The consumer could become uninsured, underinsured, or self-insured, until there is a stronger federal regulatory presence, and a system whose payments are substantially guaranteed by the federal government, similar to the FDIC.

Consumer confidence in the economy is down at the lowest it has been in 15 years. The public is demanding more information, protection and transparency for the insurance consumer. Polls, motion pictures, and documentaries all show continuing dissatisfaction with the insurance system, especially in the health area.

The current 50s-state insurance regulatory system was established by the McCarran Ferguson Act in 1945, when insurance was essentially local. The Act, besides granting an exemption from most federal antitrust laws, mandated that each state regulate "the business of insurance" within its own borders, and the federal government had to stay out of it. As a result, a costly, uneven, non--- uniform, patchwork of state insurance laws exists. Different states have different laws about the same subject. Courts sometimes interpret the law on the same subject differently. In many cases,

the insurance consumer is left to the "luck of the draw", depending upon the state insurance law that applies. The system has been criticized from both ends of the spectrum: the consumers who claim most state regulators are part of a "revolving door" in and out of the insurance industry; and from a growing group of insurance carriers and associations, who claim the system is unwieldy, time-consuming to get approvals, and costly to monitor and comply with 50 different state idiosyncrasies.

We do not have to wait for statistics to pile up quantifying the danger -- banking history and a commonsense approach to human nature has already shown what will happen if we wait -- people could simply turn their backs on the insurance product being offered. We need to be proactive not reactive, and anticipate that this type of scenario could happen. Once the erosion gets so deep, it would be too late to shore up anything, and the insurance industry 's structure would collapse under the waves of its serious problems.

A federal insurance regulator operating pursuant to a well-crafted Uniform Federal Omnibus Insurance Law (UFOIL), should be implemented. It may take some time to create the federal regulatory system, but it could be done in two steps. The first step, which could be implemented fairly rapidly, would be the creation by Congress of a "consumerization" section of the

law, a federal floor of uniform requirements for all states to create transparency for the consumer, and designed to protect and enforce consumer rights. The second phase, which would take longer, would be passage of the "federalization" section, creating the federal regulator, and a floor of uniform laws.

Insurance has long been recognized as a backbone of the US economy and it needs to remain healthy. It is a necessary ingredient for our financial and emotional well-being. However, unless something effective and long-lasting is done to reverse the congressional anger and concern, consumer loss of confidence, and industry embarrassment, there could be a coming collapse of the industry. -- and that will not be good for anyone.

Thank you for allowing me the opportunity to present my views for the committee's consideration. I would be happy to answer any questions .

Respectfully submitted,

Eric D. Gerst, Esq.

6005 Goshen Road Newtown Square, PA 19073

Phone 610-356-9640 Fax 610-325-9740 E-Mail: egerst@gerstlegal.com, or edgphl@aol.com Website : www.gerstlegal.com

Statement for the Record

of the

National Association of Mutual Insurance Companies

before the

Capital Markets, Insurance, and Government Sponsored Enterprises Subcommittee

House Financial Services Committee

April 16, 2008

The National Association of Mutual Insurance Companies ("NAMIC") is pleased to offer comments to the Capital Markets, Insurance, and Government Sponsored Enterprises Subcommittee on insurance regulatory reform.

Founded in 1895, NAMIC is the largest full-service national trade association serving the property-casualty insurance industry with more than 1,400 member companies in the United States. NAMIC members are small farm mutual companies, state and regional insurance companies, risk retention groups, national writers, reinsurance companies, and international insurance giants. NAMIC members are distinguishable by not only their size, but their diversity in business models and markets. Yet they share a belief that competition and market-oriented regulation is in the best interest of the industry and the customers they serve. It is this goal of open competitive markets that informs and shapes NAMIC's views on insurance regulatory reform.

Over the years the committee has heard extensive testimony on the need for reforms in the insurance regulatory system. Numerous proposals have been advanced, both federal and state based, including federal charters, federal uniformity standards, interstate compacts, and consortiums.

The insurance industry lacks consensus regarding the optimal regulatory structure, as evidenced by the varied approaches to insurance regulatory reform. However, there is general agreement among stakeholders – insurance companies, agents and brokers, regulators, state legislators and consumers – that reform and modernization of the current insurance regulatory system is essential to meet the needs of the 21st century marketplace. There is also broad agreement regarding the principles of sound financial regulation.

Inefficiencies in the insurance marketplace are less the result of the current functional regulatory framework, than the philosophy and execution of the regulatory objectives. Current inefficiencies in the insurance marketplace are driven by excessive rate and form regulation, which hamper competitive pricing, inhibit product and service innovation, and delay product delivery. Free market, competition-based economic structures coupled with a regulatory structure that emphasizes safety and soundness and prompt corrective action should be standard for a modern, vibrant, competitive regulatory structure capable of governing in the modern marketplace.

From a property and casualty insurance industry perspective, the key regulatory problem continues to be an over reliance on outdated and inefficient price and form regulation. To achieve the paramount objective of preventing market failure and encouraging competition, it is imperative that price regulation for all property-casualty insurance lines end. Regulators should facilitate a vibrant marketplace that relies upon competitive forces to set prices. Consistency, while desirable and cost effective, will not in and of itself lessen the marketplace inefficiencies resulting from regulatory models that do not uphold competitive economic principles.

With respect to specific regulatory reforms, NAMIC's conclusion, reached through years of member involvement and research, is that a reformed system of state insurance regulation -

with an appropriate role for congressional oversight and involvement and national standards for non-insurance specific business process issues - is the best structure.

Insurance Regulation

State regulation has for over a century served to address consumer and insurer needs generally well, particularly as it relates to the property-casualty business. The state-based functional regulatory system along with the corresponding application of the McCarran-Ferguson Act limited federal antitrust exemption has promoted and maintained a healthy, vibrant and competitive insurance marketplace.

The state-based insurance regulatory system over the years has proven to be adaptable, accessible, and relatively efficient, with rare insolvencies and no taxpayer bailouts. States have adopted specific programs and policies tailored to the unique needs of consumers within their state. State regulators and legislators consider and respond to marketplace concerns ranging from risks related to weather, specific economic conditions, medical costs, building codes, and consumer preferences. In addition, state regulation is able to respond and adapt to inconsistencies created by various state contract, tort and reparation laws.

Property/casualty insurance is inherently local in nature. The United States has 54 well-defined jurisdictions, each with its own set of laws and courts. The U.S. system of contract law is deeply developed, and with respect to insurance policies is based on more than a century of policy interpretations by state courts. The tort system, which governs many of the types of contingencies at the heart of insurance claims, particularly those covered by liability insurance, is also deeply based in state law including, for example, the law of defamation, professional malpractice, premises liability, state corporation law and products liability. State and local laws determine coverage and other policy terms. Reparation laws affect claims. Local accident and theft rates impact pricing. Geographical and demographic differences among states also have a significant impact on property-casualty coverages. Climate – hurricanes, earthquakes, etc. – differs significantly from state to state.

With the ability to respond to unique local issues, the individual states serve as a laboratory for experimentation and a launch pad for reform. State-based regulators develop expertise on issues particularly relevant to their state. Insurance consumers directly benefit from state regulators' familiarity with the unique circumstances of their state and the development of consumer assistance programs tailored to local needs and concerns. State regulators, whether directly elected or appointed by elected officials, have a strong incentive to deal fairly and responsibly with consumers.

The state insurance regulatory system; however, is not without its shortcomings. State insurance regulation in recent years received justified criticism for overregulation of price and forms, lack of uniformity, and protracted speed-to-market issues. Furthermore, many states still have unnecessary rate regulation that often results in fewer choices and higher rates for consumers. These inefficiencies must be removed to ensure a healthy, effective, competitive marketplace for our modern economy.

While much more reform is still needed, the states have not been blind to the criticism that they need to change with the times, and they have made some significant progress in addressing antiquated rules, such as those involving price controls and company licensing restrictions. The significance of these reforms should not be underestimated as they demonstrate that state regulation can be reformed. Specifically:

- Ten states have adopted flex-band rating systems for property-casualty products to replace the rigid system of price controls.
- Fifteen states have adopted the more flexible use-and-file system.
- Twenty-six states have established no filing requirements, mostly for large commercial risks.
- New Jersey and Massachusetts, both held up as difficult regulatory environments, have enacted some rate modernization. New York has established a regulatory modernization commission to make recommendations for reform.
- Only 16 states still require statutory prior approval. Several of these states, however, are among the largest in the country, accounting for 40.8 percent of the total auto insurance market and 41.4 percent of the total homeowners' insurance market nationwide.
- With respect to insurer licensing, the Uniform Certificate of Authority Application (UCAA) is now used in all insurance jurisdictions.
- A system of electronic filing has been implemented by most states and has
- streamlined the process by which rates and forms are filed by companies.
- Thirty-one states have adopted the interstate compact to serve as a single point of filing for life insurance products.
- The National Conference of Insurance Legislators (NCOIL), the National Conference of State Legislatures (NCSL) and the American Legislative Exchange Council (ALEC) have all endorsed competition as the best regulator of rates. NCOIL has adopted a significant model law that would create a use and file system for personal lines and an informational filing system for commercial lines.
- NCOIL has also adopted a Market Conduct Model Law that will bring significant reform to that area of state regulation.

Despite these steps forward much remains to be done. At the core of the essential reforms must be the adoption of open competition models and the end to price regulation for all property-casualty insurance lines. Open competition models have proven beneficial for consumers. For example, in every state that has enacted competition-based rating systems, the market has improved and consumers have more choices. These benefits must be extended to consumers across the nation and for all lines of insurance.

Additional areas in need of reform include, streamlining agent and company licensing procedures, modernizing the market conduct examination process, establishing effective due process protections for insurers, and increasing speed-to-market for products. Underwriting restrictions preventing insurers from accurately assessing risk must be removed, along with expensive coverage mandates that many consumers do not want. Proper legal protections must also be afforded within the insurance regulatory process.

Options for Reform

Optional Federal Charter

Frustrations with the state regulatory system have led some members of the insurance industry to call for federal intervention in the form of an optional federal charter ("OFC"). Bills to establish a federal charter have been introduced in past Congresses and the subject of much discussion in this Subcommittee. H.R. 3200, the "National Insurance Act of 2007," pending in the 110th Congress would have the federal government assume a direct role in the regulation of insurance by the establishment of an optional federal charter modeled on bank regulation. The legislation embodies the principles of open competition-based regulation by removing direct rate and form regulation and streamlining and centralizing insurance regulation. Proponents argue that regulatory competition promoted by a federal charter option would increase pressure for open competitive markets benefiting insurers and consumers alike.

NAMIC supports the regulatory goals articulated in H.R. 3200, but believes that regulatory reform is best achieved at the state level, without creating a new federal bureaucracy.

Proposals for an OFC raise serious design and implementation questions. Enacting and implementing comprehensive insurance regulatory reform, such as an OFC, at the federal level opens the door to numerous unanticipated problems and pitfalls. Inadvertent failure to properly act in any of a number of critical areas could damage the nation's insurance market by reducing competition, harming consumers and delaying needed reform at the state level.

For example, while proponents of an OFC tout the significant rate deregulation anticipated by the bill, the political and practical reality is that any federal system is likely to more closely resemble the California strict regulatory approach than the Illinois open competition model. Numerous specific concerns arise when considering federal regulation of insurance. Specifically:

- Insurance inherently differs from other financial products and services in that it is a promise of future financial protection making solvency and consumer protection paramount. Federal regulation has proven no better than state regulation in addressing market failures or protecting consumer interests. Unlike state regulatory failures, federal regulatory mistakes can have disastrous economy-wide consequences. The savings and loan debacle of the 1980s that eventually cost taxpayers over $100 billion is the biggest such disaster in recent memory. Similarly, federal regulation of the pension system has failed to prevent recent numerous high profile failures. In contrast, the state guaranty system continues to work well to protect consumers without taxpayer bailouts and state regulators respond to thousands of consumer inquiries each year. In addition an OFC system that establishes a national solvency fund for federally chartered companies or permits insurers operating under different financial regulatory standards to participate in state guaranty funds could raise significant questions regarding the operation, stability and viability of the financial backstop for policyholders and claimants.

- Regulatory competition between state regulators and the federal Office of National Insurance could create an unlevel playing field favoring large, national writers or specific lines of insurance. Despite assurances that all players could choose the regulatory system best matching their business model and consumer needs, the reality is that transaction costs, as well as retooling and retraining expenses, would effectively lock smaller and mid-size insurers into their original choice of regulator. Adoption of an OFC is likely to be accompanied by various "social regulation" provisions that tend to socialize insurance costs by spreading risk indiscriminately among risk classes. Provisions to place restrictions on underwriting or impose broad coverage mandates could undermine the insurance marketplace. By weakening the link between expected loss costs and premiums, underwriting restrictions create cross-subsidies that flow from low-risk insured to high-risk insureds. Similarly coverage mandates could be utilized to inappropriately cross-subsidize risk.

- A federal regulatory system that results in overlapping, dual or conflicting regulation would create regulatory confusion and significantly increase the cost of doing business for all insurers. It is foreseeable that insurers, even those opting for state regulation, would find themselves subject to a panoply of new federal rules and regulations. The health insurance market is a vivid example of the pitfalls and confusion of dual regulation for consumers and insurers. This dual regulatory system must be avoided for the property-casualty industry. A federal regulator also raises concerns regarding accessibility and accountability for both consumers and market participants. With respect to consumers, in 2006, the states combined processed 383,654 consumer complaints and handled an additional 2.5 million consumer inquiries, many involving highly fact specific situations and varied local conditions, laws and regulations. In addition, state regulators interacted countless times with insurers and producers. The likelihood that a federal regulator could provide the same level of response is not high.

- In contrast to other insurance products, the property/casualty business is highly dependent on state and regional differences. Insurance is subject to state and regional differences in legal systems and reparation laws; geographical differences impacting weather patterns and catastrophes; differences in demographics affecting population concentration, driving patterns, and land use; and state and local laws establishing driving rules, building codes, and other local matters. These differences are particularly critical for personal lines property and casualty coverage's (auto, homeowners, personal liability) making "national" products and regulation difficult.

The goal of removing direct rate and form regulation and streamlining and centralizing insurance regulation is laudable; however, NAMIC does not believe that a federal regulatory structure would necessarily provide a greater likelihood of the elimination of unnecessary and arbitrary price and product controls. Congress is no less susceptible to political pressures than state governments and there are numerous examples of federal regulatory excess to justify skepticism that a federal regulator would prove more efficient, effective or market-oriented. NAMIC does not believe that the state system, with its flaws, is so broken

that it cannot be repaired, nor does NAMIC believe there is a national crisis that necessitates building a new federal bureaucracy. Although an OFC is supported by segments of the insurance industry and the Department of the Treasury, a variety of other viable approaches for regulatory reform, including federal standards, domiciliary deference, interstate compacts and model laws and regulations, should be considered.

Federal Standards

While NAMIC opposes an OFC, we believe Congress could play a limited role in achieving specific targeted reforms to achieve national uniformity and consistency. This approach has been adopted by the House in its approval of H.R. 1065, "The Nonadmitted and Reinsurance Reform Act of 2007" which streamlines regulation for nonadmitted insurance and reinsurance carriers and surplus lines companies. The legislation would establish national standards for how states may regulate, collect, and allocate taxes for surplus lines and nonadmitted insurance. The bill would also establish national standards for how states regulate reinsurance – often referred to as insurance for insurance companies. The legislation gives the home state regulator of the insurer primary oversight of multistate surplus lines risk and responsibility for allocating any taxes collected on the coverage to the other involved states. It also makes it easier for sophisticated purchasers to access the surplus lines market. The core reform put in place by the legislation would ensure that only one set of state regulatory rules apply to policies that insure exposures in multiple states – those of the policyholder's home state. The approach embodied in H.R. 1065 allows Congress a meaningful role in modernizing the insurance regulatory system, while leaving the day-to-day regulatory control at the state level. NAMIC supports H.R. 1065 and urges swift Senate action.

A similar method for achieving uniformity is utilized in H.R. 5611, the "National Association of Registered Agents and Brokers Reform Act of 2008" ("NARAB II"). The legislation would establish licensing reciprocity for insurance producers that operate in multiple states. At the same time, it would ensure that states retain the authority to regulate marketplace activity and enforce consumer protection laws. The legislation would establish the National Association of Registered Agents and Brokers ("NARAB") to provide for non-resident insurance agent and broker licensing. H.R. 5611 is a progression from the original NARAB provision that was part of the Gramm-Leach-Bliley legislation enacted in 1999. The legislation would permit producers licensed in good standing in their home states to receive additional state licenses if they satisfy the requirements established for NARAB membership. Producers could remain licensed in the traditional manner, but those operating in multiple jurisdictions could apply for NARAB membership and one-stop non-resident licensing. NARAB II deals only with marketplace entry and would not impact the day-to-day state regulation of insurance. The legislation represents another example of meaningful congressional reform while retaining the state regulatory structure.

As Congress considers insurance regulatory reform proposals, NAMIC urges lawmakers to identify specific areas of reform that lend themselves to national standards. In addition to

nonadmitted and surplus lines regulation and agent and broker licensing, NAMIC encourages Congress to consider federal standards prohibiting states from limiting property-casualty insurers' (1) ability to set prices for insurance products, except where the insurance commissioner can provide credible evidence that a rate would be inadequate to protect against insolvency and (2) use of underwriting variables and techniques, except where the insurance commissioner can provide credible evidence that a challenged variable or technique bears no relationship to the risk of future loss. Targeted federal legislation, such as the proposals outlined, could be more easily achieved and with less federal bureaucracy leading to more expeditious insurance regulatory reform.

Interstate Compacts, Domiciliary Deference and Model Laws

Interstate compacts are contracts between states that allow states to cooperate on multi-state or national issues while retaining state control. Interstate compacts have a deep history dating from their specific mention in the U.S. Constitution. To date there are over 200 interstate compacts and the average state participates in 25 separate contracts. As such, interstate compacts offer one method for resolving differences in state insurance regulation. Thirty-one states have adopted the Interstate Insurance Product Regulation Compact to develop uniform national product standards; establish a central point of filing for these insurance products; and review product filings and make regulatory decisions related to life insurance, annuities, disability income, and long-term care insurance. Interstate compacts have also been suggested for natural disaster risks.

Domiciliary deference vests responsibility with the regulator of an insurer's state of domicile to take the lead role in specified regulatory functions. In financial regulation, states focus on their domestic insurers and rely on the state of domicile to monitor the solvency and financial condition of foreign insurers doing business in their state. States also utilize the concept of domiciliary deference in other examinations, agreeing to forego routine or comprehensive exams and relying on the home state, while retaining the right to examine targeted issues. The concept of domiciliary deference is embodied in H.R.1065 with respect to the treatment of nonadmitted and surplus lines. The concept could be expanded to streamline regulatory processes and avoid redundant examinations and document productions.

Model laws and regulations serve to increase uniformity and reduce inconsistencies among regulatory jurisdictions. Model laws and regulations have encountered difficulties in obtaining approval in a critical number of states; however, there are examples of the success of model laws. The NCOIL Credit-Based Insurance Scoring Model Act is an example of the effective use of model language. To date, laws or regulations in 27 states are based on the model.

Treasury Proposals

The recently released Department of the Treasury "Blueprint for Financial Services Reform" makes a number of recommendations for short, intermediate and long-term structural and operational changes affecting all sectors of financial services, including insurance. In

addition to support for adoption of an OFC, the report recommended the immediate creation of an Office of Insurance Oversight ("OIO") within the Department of Treasury. The new office would be charged with the authority to address international regulatory issues and to provide advice and counsel on domestic and international policy issues affecting insurance. NAMIC is concerned that the establishment of an OIO is a prelude to a dual insurance regulatory regime. Permitting federal negotiators to override or dictate standards of regulation affecting market condition and financial solvency could undermine U.S. insurance markets and the state-regulatory structure. An OIO would create regulatory confusion. Advice and counsel on issues affecting the insurance industry is currently available, as evidenced by the involvement of federal officials in a variety of current issues, including terrorism and natural catastrophe risk. Creation of a new bureaucratic entity is not warranted at this time.

Long-term regulatory reforms proposed by Treasury are premised upon of an objectives-based regulatory system keyed to market stability regulation, prudent financial regulation and business conduct regulation. To facilitate this transition, the blueprint calls for the establishment of three distinct regulatory bodies encompassing all sectors of the financial services industry to address the individual specific core objectives.

As Congress reviews Treasury's recommendations for a shift from the current rules-based legal and regulatory system to objectives-based regulation, careful attention must be given to legal and operational issues. Lack of legal certainty could create extreme vulnerability for regulated firms if not properly addressed in conjunction with such a shift in the regulatory paradigm. Whether a particular way of doing business conforms to the objective involved can be a matter of a particular regulator's opinion, and as regulators and circumstances change, so do interpretations. In addition, civil liability concerns must also be addressed if objectives-based regulation is adopted. In the United States, companies are subject to liability in private class actions in both federal and state courts, civil rule enforcement by federal and state regulators, and criminal enforcement by both the U.S. Justice Department and state attorneys general. NAMIC urges regulators and lawmakers to carefully weigh all issues, including ensuring proper legal protection and regulatory transparency and avoiding arbitrary regulator conduct.

In developing regulatory processes to meet consumer and market needs, the financial regulatory structure would also benefit from uniform and consistent acknowledgement and application of fundamental business legal protections, including confidentiality and privilege provisions, due process rights to withhold production, trade secrets, and self-evaluative audits to safeguard the legal and intellectual property rights of financial services entities. In addition, it is imperative that lawmakers and regulators address the complex legal issues arising through the increasing use of third parties. Although regulators often enter into "confidentiality" agreements with these third parties, courts have consistently held that privilege is vitiated when privileged information is provided in such fashion. In addition, the insurer or other financial service entity is not a party to such agreements and as such has little or no remedy if the agreement is deficient or breached.

Although not always in the context of insurance regulatory reform proposals, to successfully achieve the desired goals of effective regulation careful attention must be paid to these issues.

Treasury also recommends enhancing the authority of federal negotiators to address insurance issues. NAMIC supports efforts to ensure the competitiveness of the U.S. insurance market and adequate participation in the U.S. reinsurance market of foreign-based entities. NAMIC supports efforts of state regulators to work with international regulators toward a well functioning marketplace and the international free flow of capital. However, property and casualty insurance is highly dependent on local geographical, demographic and economic conditions, state tort and reparation laws, and other variables. The U.S. system of contract law is deeply developed, and with respect to insurance is based on more than a century of policy interpretations by state courts. The tort system, which governs many of the types of contingencies at the heart of insurance claims, particularly those covered by liability insurance, is also deeply based in state law. Negotiations regarding insurance policy to facilitate international regulatory cooperation cannot override state contract and tort law and insurers cannot have policies that place them in conflict between these state laws and international treaties or negotiations. Standards of regulation affecting market condition and financial solvency of market players also cannot be overridden or dictated by federal negotiators. There are significant differences between insurance and other financial services and products which necessitate specific regulatory treatment. International regulatory cooperation, while vital to U.S. interests, may not take precedence over market solvency and stability and protection of U.S. consumer interests.

Conclusion

NAMIC fully supports the goal of simplification and modernization of the nation's financial regulatory process. We encourage the Subcommittee to fully explore all options for modernizing and reforming the state-based regulatory system. We look forward to working with the committee on proposals to enhance the state-based insurance system for our nation's insurers and policyholders.

Carl M. Parks
Senior Vice President, Government Affairs
National Association of Mutual Insurance Companies
122 C Street, N.W.
Suite 540
Washington, D.C. 20001

NIPR Overview for PIA

April 14, 2008

Maryellen Waggoner
Executive Director

NIPR
National Insurance Producer Registry

Agenda

- NIPR Background
- State Stats
- www.NIPR.com
- NIPR Products
- What's New at NIPR
- What Can NIPR Do for You?

NIPR

© Copyright 2008 NIPR

National Insurance Producer Registry

- Incorporated in October 1996 to support producer licensing
- Non-profit affiliate of the NAIC
- Supports reciprocity principles of the Gramm-Leach Bliley Act and NAIC's Uniformity Initiatives

NIPR

© Copyright 2008 NIPR

Mission Statement

The Mission of NIPR is to be the premier public-private partnership supporting the work of the States and the NAIC in re-engineering, streamlining and making uniform the insurance producer licensing process for the benefit of regulators, the insurance industry, and consumers.

NIPR

© Copyright 2008 NIPR

Vision Statement

The NIPR will work with states, industry and other stakeholders to be the ***"one stop shopping"*** facility for all electronic producer licensing transactions.

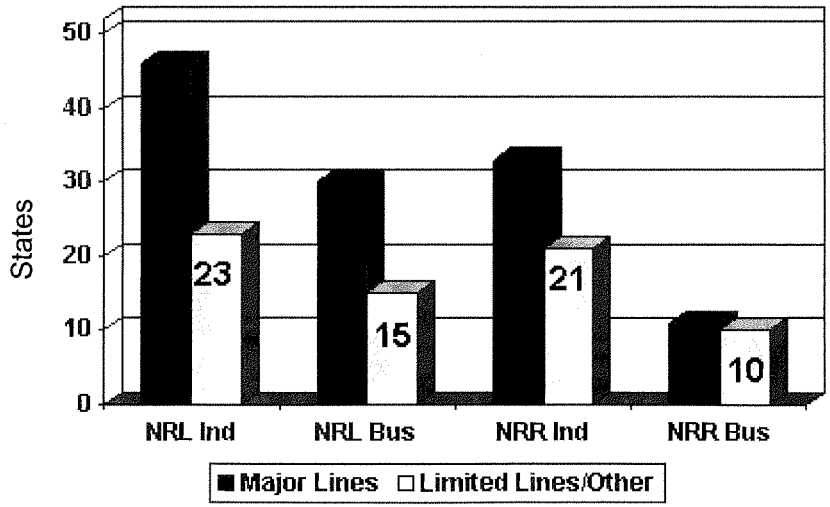
NIPR

© Copyright 2008 NIPR

State Update

Number of direct PDB Subscribers	1350 ++
Number of Producers with information on PDB	Over 4,000,000
Producer Database (PDB)	COMPLETE
Appointments & Terminations (9 states do not require appointments)	41 of 42 States
Appointment Renewals	6 States
Non-Resident Licensing (NRL)	46 States
Non- Resident Renewals (NRR)	35 States
Resident Licensing (RL)	12 States
Resident Licensing Renewals (RLR)	11 States
Address Change Request (ACR)	45 States
National Producer Number (NPN)	47 States
Electronic Funds Transfer (EFT)	43 of 48 States

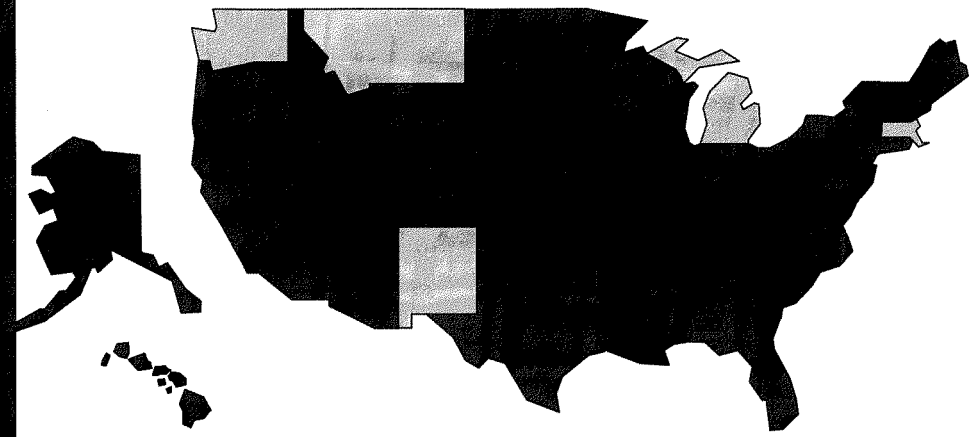
Non-Resident Licensing (NRL) & Non-Resident Renewals (NRR)



NIPR

© Copyright 2008 NIPR

Non-Resident Licensing (NRL) Major Lines



BOTH Individual & Business (30):

AL, AK, AZ, CO, CT, DE, DC, HI, ID, IL, IN, IA, KS, KY, LA, ME, MO, NV, NH, NJ, ND, OH, OK, PA, SC, SD, TN, UT, WV, WI

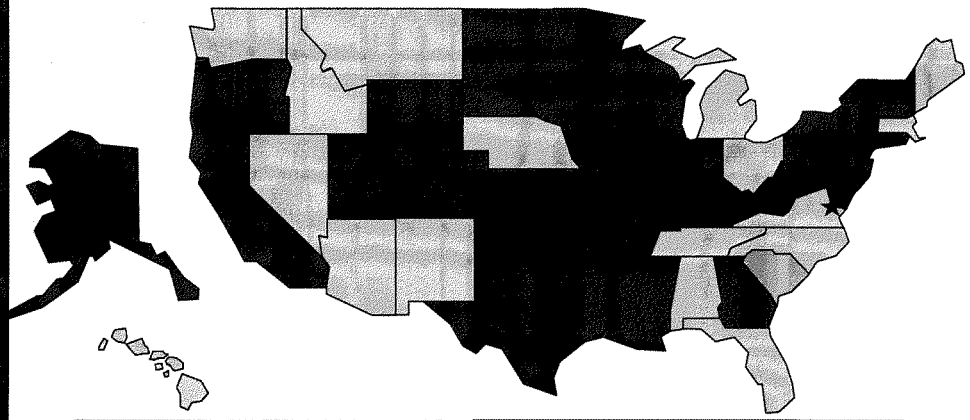
INDIVIDUAL only (16):

AR, CA, FL, GA, MD, MN, MS, NE, NY, NC, OR, RI, TX, VT, VA, WY

NIPR

© Copyright 2008 NIPR

Non-Resident Renewals (NRR) Major Lines



BOTH Individual & Business (9):

AK, CT, DE, DC, IA KY, NH, NJ, WV

BUSINESS only (2): ME, SC

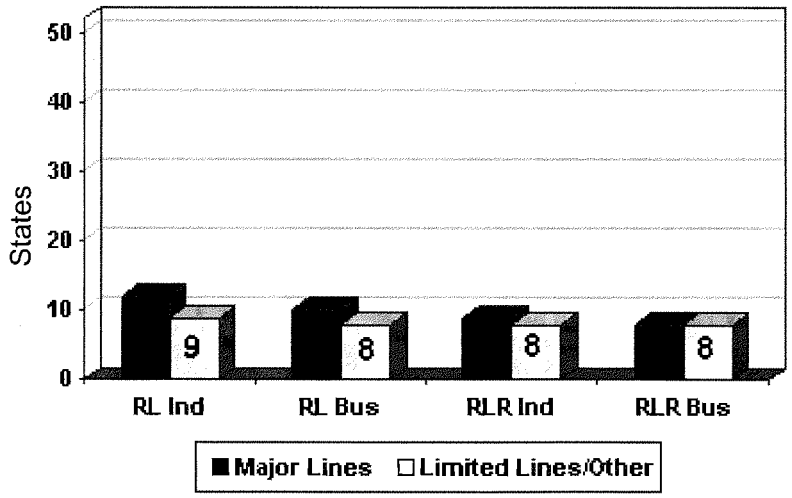
INDIVIDUAL only (24):

AR, CA, CO, GA, IL, IN, KS, LA, MD, MN, MS, MO, ND, NY, OK, OR, PA, RI, SD, TX, UT, VT, WI, WY

NIPR

© Copyright 2008 NIPR

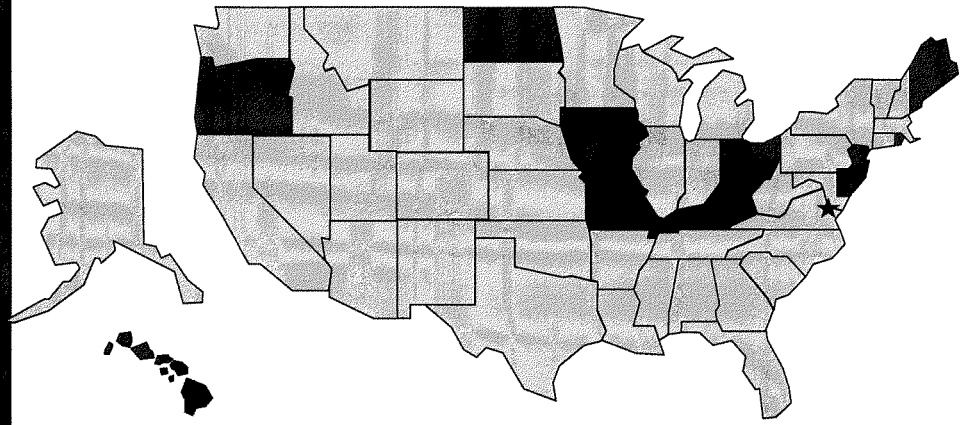
Resident Licensing (RL) & Resident Renewals (RLR)



NIPR

© Copyright 2008 NIPR

Resident Licensing (RL) Major Lines



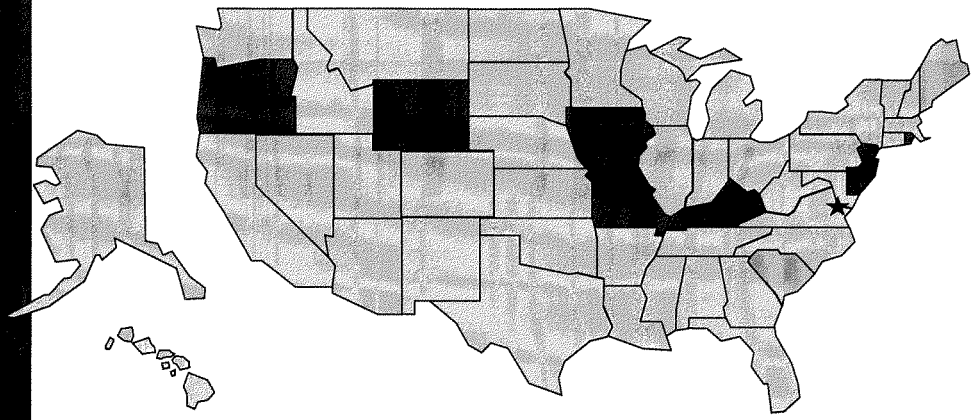
BOTH Individual & Business (10):
DE, DC, HI, IA, KY, ME, MO, NJ, ND, OH

INDIVIDUAL only (2):
OR, RI

NIPR

© Copyright 2008 NIPR

Resident Renewals (RLR) Major Lines

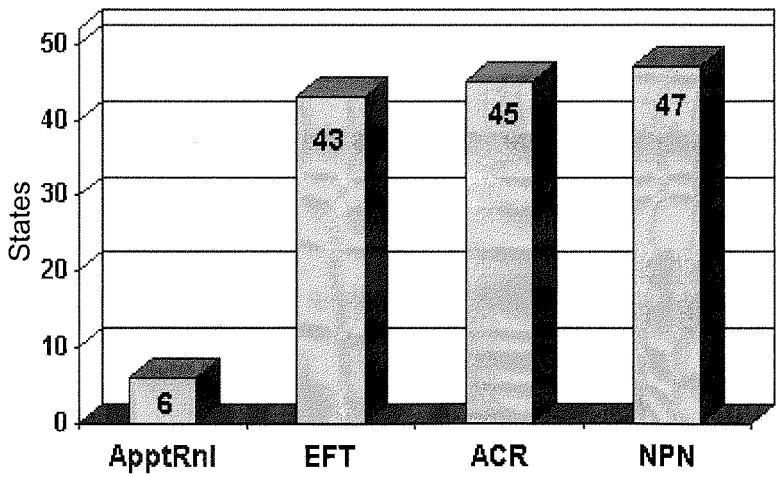


BOTH Individual & Business (6):	INDIVIDUAL Only (3):	BUSINESS Only (2):
DE, DC, IA, KY, NJ, WY	MO, OR, RI	ME, SC

NIPR

© Copyright 2008 NIPR

Other Products & Services



NIPR

© Copyright 2008 NIPR

NIPR Customers

- ABP Distribution
- Direct Distribution
- Trade Association Referrals

NIPR

© Copyright 2008 NIPR

www.NIPR.com

Home | About NIPR | Search | Contacts/Help

NIPR
National Insurance Producer Registry

PRODUCTS & SERVICES

Producer Database (PDB)
The PDB is a central repository of producer licensing information.
More Information >

Log In to PDB >

NIPR Gateway
The NIPR Gateway is a communication network that electronically links state insurance departments with the entities they regulate.
More Information >

Log In to NIPR Gateway >

Address Change Request

Electronic Licensing

ANNOUNCEMENTS

NAIC Completes Comprehensive Producer Licensing Assesment

Louisiana -- Company Appointment Renewals are now available, **click here**.

Kentucky -- Company Appointment Renewals are now available, **click here**.

Address Change Request is now available, **click here**.

If you have questions, comments or concerns, please **see the Contacts/Help area** for contact information.

LATEST NEWS RELEASES

NEWS FLASH
NIPR Celebrates Processing Milestone
3/21/08

INFORMATION

NAIC Home Page

Link to Departments of Insurance Sites

Regulator Information

NIPR Focus Group

User Guides

FAQs

Authorized Business Partners

Product List by State

Product Definitions

NIPR EVENTS CALENDAR

NAIC National Meeting
March 28 - April 1, 2008
Orlando, FL

NIPR

© Copyright 2008 NIPR

NIPR Products

- Producer Data Base
- Premier Product
- Centralized repository of State Producer Licensing Information updated on a timely basis and made available to the insurance industry

NIPR

© Copyright 2008 NIPR

Producer Data Base

- Contains Data submitted by all States, District of Columbia, Puerto Rico
- Primary purpose is to facilitate the ability to track pertinent information regarding licensed producers.
- FCRA compliant data base

NIPR

© Copyright 2008 NIPR

PDB Detail Report

- General demographic information – name / address
- License information – states, license number, license status, LOA's
- Appointment Information – company appointments, effective date, termination date, termination reason

NIPR

© Copyright 2008 NIPR

Who Uses the PDB?

- Over 1,350 subscribers – Insurance companies and agencies
- Over 5.7 Million look-ups in 2006
- Over 6.8Million look-ups in 2007

NIPR

© Copyright 2008 NIPR

PDB Reports – User Information

- Requires License Agreement
- Requires Permissible Purpose
- Subject to FCRA
- Affordable – billed monthly
- PASS

NIPR

© Copyright 2008 NIPR

PDB Detail Report Formats

- Batch – for multiple reports
- XML – for flexibility in importing, filtering, and manipulating the data

© Copyright 2008 NIPR

PDB Detail Report Sample

Non-Resident State(s)

SUMMARY FOR STATE: NV

JONATHAN B DOE NPN 987654 Date: 4-30-2007

Demographics NPN 987654 Date: 4-30-2007
STATE: NV

DOB 03/09/1942

Date Updated: Business Addresses :
04/25/2007 18645 SHERMAN WAY # 115 RESEDA, CA 91335
Date Updated: Mailing Addresses :
04/25/2007 18645 SHERMAN WAY # 115 RESEDA, CA 91335
Date Updated: Residence Addresses :
04/25/2007 5183 LAUREL PARK DR CAMARILLO, CA 93012

License Summary NPN 987654 Date: 4-30-2007
STATE: NV

License#: 1907

Issue Date: 07/06/2004 **Expiration Date:** 08/01/2007 **Last Updated:** 05/05/2006

Class: NON RES PRODUCER/PRODUCER FIRM **Residency:** NR **Active:** Yes * Indicates current loa status

CE Compliance: N/S **CE Renewal Date:** **CE Credits Needed:**

Line Of Authority	Authority Issue Date	Status		Status Reason	Status/Reason Date
Casualty	07/06/2004	Active	*		07/06/2004
Health	07/06/2004	Active	*		07/06/2004
Life	07/06/2004	Active	*		07/06/2004
Property	07/06/2004	Active	*		07/06/2004

Appointments NPN 987654 Date: 4-30-2007
STATE: NV

Company Name	FEIN	Cocode	Line Of Authority	Status	Termination Reason	Current Appt/Term Effective Date	Appointment Renewal Date
First Colony Life Ins Co	54-0596414	63401	Health	Terminated	Not for Cause	05/30/2006	
First Colony Life Ins Co	54-0596414	63401	Life	Terminated	Not for Cause	05/30/2006	
Jackson National Life Ins Co	38-1659835	65056	Life	Appointed		02/02/2007	
Om Financial Life Ins Co	52-6033321	63274	Health	Appointed		09/22/2006	
Om Financial Life Ins Co	52-6033321	63274	Life	Appointed		09/22/2006	

Other PDB Products

- Company Specialized Report – Licensing Information
- Company Appointment Report – Appointment Information
- Company Appointment Reconciliation Report – Supports Renewal/Termination Process
- Alerts – Notice of Changes to Licensing Information

NIPR

© Copyright 2008 NIPR

Licensing Applications

- Licensing Applications
  - Resident, non-resident and renewals
  - Quickly and easily apply for multiple non-resident licenses
  - Standardized format
  - Producer information verified from PDB
  - Fee calculation
  - No credit card fees

NIPR

© Copyright 2008 NIPR

Address Change Request (ACR)

- First Multiple State Rollout
- 45 States in Production
- Allows producers and authorized submitters to submit an electronic address change request to the states in which they are licensed
- NIPR absorbs processing fees

NIPR

© Copyright 2008 NIPR

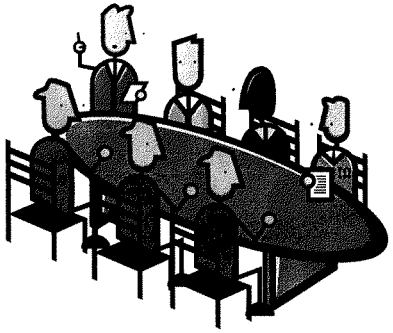
Gateway Products

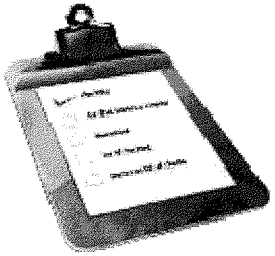
- Appointments and Terminations
  - Over 7 Million Transactions in 2006
  - Over 7 Million Transactions in 2007
- Resident & Non-Resident Licensing and Renewals
  - 670,000+ in 2006
  - Over 1 Million in 2007
- Address Change Requests
  - Over 285,000 since July 2007

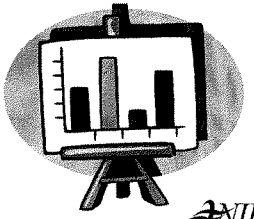
NIPR

© Copyright 2008 NIPR

Current Projects





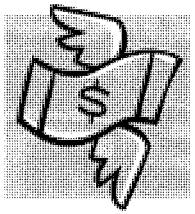


NIPR

© Copyright 2008 NIPR

Electronic Checks

- Another option for electronic payment
- Initially only available for certain products
- Work in progress



NIPR

© Copyright 2008 NIPR

National Producer Numbers for Agencies

- Definition
  - NPN is a unique sequential number that identifies each "Clean" Producer, individual and agency, in PDB
  - A "Clean" Producer is one that has the required entity identifier(s)
  - 10-digit number without leading zeros

NIPR

© Copyright 2008 NIPR

NIPR/NAIC Happenings

- Producer Licensing Coalition
  - Assessment
  - www.nipr.com - Announcements
- Additional NIPR resources

NIPR

© Copyright 2008 NIPR

What's New

- Upcoming price reduction NRL to $6.18
- Elimination of User ID renewal fees
- NRL / NRR Enhancements
- 50M transaction

NIPR

© Copyright 2008 NIPR

Attachments Warehouse

- An NIPR/NAIC project to create a warehouse in order to receive, store, and share with regulators the licensing documents required by regulators
- Documents to support "yes" answers to background questions on licensing applications
- Legal documents required in response to regulatory actions, criminal offenses etc.

NIPR

© Copyright 2006 NIPR

Submitting Attachments & Reporting Actions

- Producer or Authorized Submitter electronically submits documents to the Attachment Warehouse during or after completion of an electronic licensing application, or Regulatory Action.

- State regulators can be notified when documents are submitted to the warehouse so they can access the information

NIPR

© Copyright 2008 NIPR

E-Regulation Conference

- April 27 – 30, 2008
- Hyatt Regency Crown Center
- Kansas City, MO
- Conference Tracks
  - Company & Market Regulation
  - Rate & Form Filing
  - Producer Licensing
  - Technology

NIPR

© Copyright 2008 NIPR

NIPR Hot Topics for E-Reg

- Producer Licensing Working Group Interim Meeting
- NAIC Producer Licensing Coalition Update
- NIPR Industry Focus Group Meeting
- Producer Licensing Regulatory Updates & Current Issues
- New Products and Services for Producer Licensing Industry & Regulators

NIPR

© Copyright 2008 NIPR

What can NIPR do for Big "I" Members?

- How do you use the website now?
- What can we do to help you?

NIPR

© Copyright 2008 NIPR

Questions

© Copyright 2008 NIPR