

STATEMENT OF
THE AMERICAN INSURANCE ASSOCIATION
BEFORE THE
SUBCOMMITTEE ON CAPITAL MARKETS, INSURANCE
AND GOVERNMENT SPONSORED ENTERPRISES
OF THE
COMMITTEE ON FINANCIAL SERVICES
OF THE
UNITED STATES HOUSE OF REPRESENTATIVES
ON
H.R. 5840, THE INSURANCE INFORMATION ACT OF 2008

Neal S. Wolin
President and Chief Operating Officer, Property and Casualty Operations
The Hartford Financial Services Group

Good morning. My name is Neal Wolin. I am the President and Chief Operating Officer for Property and Casualty Operations of The Hartford Financial Services Group. I appear today on behalf of the American Insurance Association (AIA). AIA represents more than 350 property - casualty insurers that write more than \$123 billion in annual premiums across the country.

Before turning to the legislation that is the subject of this hearing, I would like to thank Chairman Kanjorski, Ranking Member Pryce, and the members of this Subcommittee for your ongoing commitment to insurance regulatory modernization. The recent Treasury "Blueprint for A Modernized Financial Regulatory Structure" underscored what Members of this Subcommittee have long understood —insurance plays a critical role in today's increasingly interconnected and global financial markets. Unfortunately for America's consumers and investors, the lack of uniformity in insurance laws and regulation and the misguided emphasis on government price controls and regulatory micromanagement of insurance products hinder innovation, generate serious cost and efficiency burdens, and hamper the industry's global competitiveness. The insurance consumer loses in the current system because of the slower pace of innovation and the growing size of subsidized state "markets of last resort" in states that have tight government rate regulation.

Today I testify in support of the Insurance Information Act of 2008 (H.R. 5840), which would establish a federal Office of Insurance Information within the Department of the Treasury. It would thereby create an insurance expert who serves as the principal federal advisor on domestic and international policy issues for all lines of insurance but health. In one stroke, we would answer the call for a single national voice on these important matters.

Equally important, the bill would give the federal government the authority it needs to engage with its counterparts around the globe on international insurance matters, with targeted authority to back up any formal commitments made by the United States.

As you know, AIA strongly advocates the creation of an optional federal charter (OFC) for insurers. We believe that an OFC, as set forth in the National Insurance Act of 2007 (H.R. 3200) represents the best opportunity to advance regulatory modernization in a manner that works for consumers, the industry, our shareholders and the economy. At the same time, we recognize that H.R. 5840 would fill a critical immediate void that is hampering the development of sound public policy on international insurance issues that often arise in discussions between the United States and foreign governments. We support H.R. 5840 because it will provide an essential single, federal source of analysis and policy guidance on these issues.

Overview of the Legislation

As I have indicated, H.R. 5840 would create a federal Office of Insurance Information (OII or Office) within the Department of the Treasury to build national insurance expertise and to establish consistent U.S. insurance policy with respect to international regulatory best practices, as well as the insurance component of trade agreements.

To accomplish these objectives, the bill would vest the OII with the authority to collect and analyze data on insurance risk and insurance markets; advise the President, the Secretary of the Treasury and the Congress on major domestic and international policy issues regarding property-casualty and life insurance; establish federal policy on international insurance matters; and determine whether state insurance laws are consistent with agreements relating to federal policy on international insurance matters, as entered into by the U.S. and foreign authorities.

The bill also establishes an Advisory Group, comprised of state regulators, U.S. government agencies, consumer groups, and others in the insurance industry and requires that the OII report to Congress every two years.

Need for the OII

An Office of Insurance Information is needed for both domestic and international public policy reasons. Insurance regulation, once thought to be the province of isolated industry practitioners and regulators, is now central to public policy debates over the direction of the financial services sector and the U.S. economy. It has also increasingly become a priority issue in discussions between the U.S. government and foreign nations. At the last hearing of this Subcommittee, Chairman Kanjorski said that almost 90 bills involving "insurance" have been introduced in this Congress and referred to the Financial Services Committee.

The past year has seen the enactment of an extension of the Terrorism Risk Insurance Act, as well as serious debate on proposals that would greatly expand federal financial responsibility for natural catastrophe insurance. These issues raise fundamental insurance questions. Yet the federal government's executive branch maintains no established insurance expertise or authority to help formulate sound national public policy on such matters.

A central source of expertise within the federal government is needed to help Congress make better decisions about national insurance policy. The ongoing problems in the bond insurance marketplace provide a good example: despite the important role of financial guaranty insurance, no federal regulator was authorized to evaluate the bond insurance market in a manner that could have

foreseen the truly national impact that industry can have on the U.S. financial system's overall health.

The OII is also needed to give a national voice to U.S. insurance interests in the global insurance marketplace. The U.S. has been hampered in its ability to negotiate the insurance component of international trade agreements. The National Association of Insurance Commissioners (NAIC) attempts to play the role of counterpart to foreign regulatory authorities or foreign governments on insurance matters. However, state regulators, whether acting unilaterally or under the NAIC umbrella, lack the Constitutional authority to make international commitments for the United States.

As a result, insurance issues have sometimes been inadequately addressed in important international agreements. For example, in the Financial Services Chapter of NAFTA, Mexico excluded all cross-border provision of insurance services. And in the WTO negotiations, very few insurance commitments have been made by emerging market countries. We have had some progress. The United States Trade Representative has recently achieved meaningful success for insurance in individual FTA negotiations. But this is becoming harder to do as negotiating partners increasingly demand reciprocal regulatory concessions that neither the states nor the federal government can deliver on behalf of fifty plus state regulators.

Moreover, foreign insurance regulatory regimes are in the midst of significant global transformational change. In Europe, the Solvency II Directive will completely alter the insurance regulatory structure in EU member nations through introduction of a total balance sheet and enterprise-wide risk management approach to solvency requirements and a supervisory review process that requires companies to perform extensive annual risk self-assessments across the complete spectrum of operational, credit, and other types of risk.

Solvency II cannot be adequately considered for integration with the U.S. state insurance regulatory structure because of inconsistencies between state-based and European standards: the states focus on the entity operating within their borders, while the developing European standards focus on the group's operation throughout all of Europe. Also, regulatory developments abroad may affect U.S.-based insurers' ability to compete in foreign markets. 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."

The OII could work with foreign governments, the industry, and state insurance regulators to find a solution that will ensure continued U.S. insurance company access to global markets as equal competitors. The U.S. also needs a national advocate as the new insurance standards become integrated into the

international best practices at the International Association of Insurance Supervisors (IAIS).

Accounting standards for the insurance sector are also undergoing change because of pressure to converge individual national accounting standards into a single global standard. Some have suggested that the International Financial Reporting Standards (IFRS) should be the global standard. If the U.S. is to move to a financial reporting framework that is not based on generally accepted accounting principles (GAAP), the U.S. insurance industry must have an effective voice in negotiations to adopt a new and appropriate accounting standard that would bring greater comparability and increased disclosure to the global marketplace.

Preemption and the H.R. 5840 Discussion Draft

H.R. 5840 as introduced does not alter the current role of state insurance commissioners as the regulatory authority in their respective states. In fact, the exemption language of the bill precludes the OII from establishing general supervisory or regulatory authority within the Treasury Department. However, to ensure that state insurance laws remain consistent with federal policies relating to international insurance matters reflected in agreements entered into by the U.S. with insurance regulators in other countries, the bill grants the OII the authority to preempt inconsistent state laws or regulations.

The scope of preemption in the discussion draft is further narrowed to block only those state insurance measures that treat “a non-United States insurer domiciled in a jurisdiction” subject to an international agreement “less favorably than [that jurisdiction] treats a United States insurer.” We believe that the revisions in scope may decrease the ultimate utility of the preemption provisions unless clarified. To address this concern, and to provide for meaningful preemption, we would urge the Subcommittee to make the scope symmetrical so that states do not subject U.S. insurers to less favorable treatment than non-U.S. insurers doing business in those states. Preemption should be exercised to ensure that all insurers are subject to the same standards and compete on an equal basis. We would be pleased to work with the Subcommittee to find a way to include such a principle of symmetry in the draft.

The other proposed revisions to the bill’s preemption language would grant the Treasury Secretary the authority to stay a preemption determination for prudential reasons or where that determination would result in a regulatory gap in either U.S. financial solvency or market conduct regulation, or establish general federal regulatory authority over insurance. These are useful benchmarks to guide the Office’s decisions to preempt state insurance measures and we look forward to working with the Subcommittee to achieve a successful formula.

Information Collection & Confidentiality

As introduced, H.R. 5840 provides the OII with the authority to collect, receive and share publicly-available data and information in order to develop and issue studies on the U.S. insurance markets and to report periodically to Congress. However, the discussion draft alters this authority by removing the limitation to “publicly available” information. This change puts at risk the confidentiality of non-public data and information. Insurers are intensely focused on the need to protect proprietary information.

The vast majority of state laws – which are an outgrowth of the NAIC market conduct surveillance model – protect the confidentiality of data or information submitted as part of the market conduct analysis and examination process. This statutory protection is rational from the regulatory and industry perspectives, as it enables insurance regulators to gather unrefined information to analyze business conduct in the marketplace, and it allows insurers to provide that information without fear that it will be misused or misinterpreted in the public realm. By expanding the OII’s collection function to non-public information and not providing a statutory guarantee that information will receive confidentiality treatment identical to that provided under state law, the discussion draft both erodes current state law protections and inadvertently encourages the collection and distribution of non-public information through non-governmental channels such as the NAIC – entities that do not enjoy the same statutory authority as state insurance departments to protect such information. Given these concerns, we encourage the Subcommittee to either restore the “publicly available” limitation on the OII’s information collection function, or to modify the discussion draft in a way that will allow any non-public information to receive the confidentiality currently afforded by state law and that will not encourage the breach of those laws through centralized collection by a non-governmental entity. With respect to the Office’s direct collection of non-public data, we would welcome the opportunity to work with the subcommittee to find a way to protect the information that the Office collects. Perhaps one solution could be found in other legislation that safeguards the confidentiality of proprietary data.

Conclusion

In conclusion, AIA supports H.R. 5840. It fills a critical void of expertise and of insurance issue advocacy nationally and internationally without changing the current state-based insurance regulatory system. We encourage you to enact this legislation, as quickly as possible, so that U.S. interests are not at a disadvantage during critical international negotiations that are now defining the future of insurance solvency standards and regulatory oversight.

At the same time, we urge that you maintain the Subcommittee’s focus on broader insurance regulatory reforms that would address the increasing cost and efficiency burdens that our disjointed state insurance regulatory system imposes

on insurers, our policyholders, and our investors. In order to establish uniform, effective, and efficient regulation over all aspects of the insurance system, we staunchly support an OFC.

Thank you for the opportunity to testify today and for your continued leadership on insurance regulatory reform and other critical insurance issues. I look forward to working with the Subcommittee to improve our nation's insurance regulatory system and would be happy to answer any questions you might have.