

May 6, 2019

The Honorable Steven T. Mnuchin
Chairman
Financial Stability Oversight Council
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Re: RIN 4030-ZA00: Authority to Require Supervision and Regulation of
Certain Nonbank Financial Companies

Dear Secretary Mnuchin:

On behalf of the National Association of Insurance Commissioners (NAIC)¹, we write today in response to the request for public comment on the proposed interpretative guidance entitled “Authority to Require Supervision and Regulation of Certain Nonbank Financial Institutions” dated March 13, 2019.

As insurance regulators, we have long believed that our legal entity and group supervisory approaches contribute to financial stability and insurance sector activities should not threaten the financial stability of the United States. Therefore, we remain committed to monitoring for systemic risks and taking appropriate action if such risks are identified. In fact, the NAIC has established a Financial Stability Task Force and launched a multi-year Macroprudential Initiative just for this purpose. For these reasons, we support the Financial Stability Oversight Council’s proposal to prioritize activities-based approaches to identifying systemic risk and its emphasis on working with primary regulators to address such risks.

We also support the proposed changes to the nonbank designation processes. While we agree with the Council’s prioritization of activities-based approaches, we recognize there may be rare circumstances where the Council may exercise its authorities to designate non-bank financial firms. In this regard, we have historically been concerned with the lack of transparency of the non-bank designation process as well as its failure to adequately involve primary regulators. Consistent with our commitment to address systemic risk in the insurance sector, we have also called for the Council to establish a clear “exit ramp” for designated firms whereby the firm and its regulators are given information to mitigate any financial stability risks an individual firm may pose. The proposal incorporates these concepts and we urge their adoption.

Notwithstanding our agreement with the proposed approach, we do have suggestions for improvements to the Council’s current processes that could build on and strengthen the implementation of the proposed guidance. First, while we appreciate the Council’s proposal to rely more heavily on primary regulators, more can be done in this regard. The U.S. insurance regulatory structure is a 56 state and jurisdiction system that relies extensively on the network of regulators within state insurance departments and the

¹ Founded in 1871, the NAIC is the U.S. standard-setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia and the five U.S. territories. Through the NAIC, state insurance regulators establish standards and best practices, conduct peer review, and coordinate their regulatory oversight. NAIC members, together with the central resources of the NAIC, form the national system of state-based insurance regulation in the U.S.

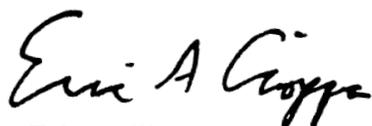
resources provided by the NAIC. Currently, the state insurance regulators' representative on the Council and his staff are prohibited from fully collaborating with their colleagues within the state insurance departments and the NAIC, which is fundamentally inconsistent with our approach to regulation. While we understand processes are needed to preserve confidentiality, robust confidentiality structures already exist within the state-based system, and it is to the detriment of the Council, the insurance sector, and the United States to prohibit state insurance regulators from bringing their entire scope of resources to bear for purposes of the Council's important work. As the Council revises its approach, shifting its focus and emphasis from specific firms to activities that could potentially span multiple firms, an effective insurance regulatory response will demand coordination across state jurisdictions. Such coordination is a cornerstone of our approach, so we ask that the Council revisit its current policy in this regard and work with us to create mechanisms whereby information regarding Council deliberations relating to the insurance sector can be shared more broadly with insurance regulators.

In addition, the Council should recommend to Congress that the state insurance regulator representative be given a vote on the Council in a manner that comports with the appointments clause of the United States Constitution. Currently, state insurance regulators are the only primary regulators without a vote. Not only do state insurance regulators have the necessary expertise and information regarding the insurance sector to inform the Council's risk monitoring work, they are the only regulators that have the authority to take regulatory action across the entire sector.² Given the Council's intention to prioritize activities based approaches, the elevation of the state insurance regulator to a voting role is critical to ensure the new approach is effective and credible.

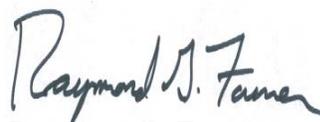
In conclusion, we believe the proposal goes a long way to addressing longstanding concerns that state insurance regulators have had with the Council's current approach to addressing systemic risk and we look forward to working with the Council to implement the proposed new guidance. We also hope that the Council will strongly consider our additional suggestions to improve processes as such changes will only enhance the Council's ability to identify and address systemic risk.

Should the Council have any questions or wish to discuss further, don't hesitate to contact Ethan Sommichsen, Managing Director of Government Relations, at esommichsen@naic.org.

Sincerely,

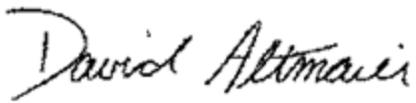


Eric A. Cioppa
Eric A. Cioppa
NAIC President
Superintendent
Maine Bureau of Insurance



Raymond G. Farmer
Raymond G. Farmer
NAIC President-Elect
Director
South Carolina Department of Insurance

² The Federal Reserve has limited regulatory authority within the insurance sector as they only regulate FSOC designated firms and depository institution holding companies with insurance operations. Neither the Independent Member with Insurance Expertise nor the Federal Insurance Office have any regulatory authorities over the insurance sector.



David Altmaier
David Altmaier
NAIC Vice President
Commissioner
Florida Office of Insurance Regulation



Dean L. Cameron
Dean L. Cameron
NAIC Secretary-Treasurer
Director
Idaho Department of Insurance



Michael F. Considine
Michael F. Considine
Chief Executive Officer
National Association of Insurance
Commissioners