

February 9, 2011

The Honorable Timothy Geithner  
Secretary  
United States Department of the Treasury  
1500 Pennsylvania Avenue, N.W.  
Washington, DC 20220

Re: Financial Stability Oversight Council

Dear Secretary Geithner:

State insurance regulators understand, respect and support the need for financial stability oversight to minimize the potential impact of widespread financial institution failures in the United States economy. We write because of our concern about the manner in which the Department of Treasury (“Department”) has chosen to implement the Dodd-Frank Financial Stability Oversight Council (“FSOC”). To date, the Department, either independently or in concert with other FSOC member agencies, has limited our ability to meaningfully participate in FSOC’s work and provide the regulatory perspective of the insurance sector to these critical discussions.

Insurance is among the nation’s largest financial sectors and performs a critical function in the United States and international economies. Understanding the impact of systemic risk on the insurance sector and how the business of insurance interacts with other activities and products within a potentially systemic institution is – and will continue to be – best understood from the perspective of the industry’s functional regulator. As FSOC members survey the financial landscape looking for systemic risk and developing regulatory solutions that appropriately reflect and consider the wide diversity of financial institutions, insurance will undoubtedly be a part of that review and discussion. Without properly integrating state insurance regulators, as supported and coordinated through the NAIC<sup>1</sup>, the FSOC will be notably devoid of the expertise and information necessary to reach fully informed conclusions about insurance companies and insurance regulation.

While state banking and securities regulators are appropriately part of the FSOC and have a unique perspective to offer, these sectors are also well represented on FSOC by federal counterparts who likely supervise the majority of institutions that would be relevant to a systemic risk discussion. Insurance, however, is a state regulated business and there is no federal functional regulatory counterpart. The state insurance regulatory system could easily be accommodated to more fully participate in the FSOC but, to date, we have been met with opposition to expanding our contributions to even a fraction of that contributed by federal agencies.

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<sup>1</sup> The NAIC, the association of the state insurance commissioners, assists state regulators by providing them regulatory, legal, actuarial, accounting, and other support, and work at the behest of state regulators in helping them craft regulatory policy. The NAIC and its staff are part of the fabric of the state insurance regulatory system, and work hand in hand with state insurance regulators to help them achieve their goals.

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As an industry, insurance is fundamentally different from the banking and securities business models with distinguishing features and risks. Congress recognized the importance of the insurance sector to the United States' financial system and its unique nature by requiring that FSOC have three separate insurance experts as members: 1) an independent member with insurance expertise appointed by the President and confirmed by the Senate, 2) a state insurance commissioner member chosen by the state insurance regulators, and 3) the Director of the Federal Insurance Office ("FIO"). We agree with this emphasis on the insurance sector, but Dodd-Frank clarifies that the state insurance regulator, currently Director Huff, is – and will remain – the only acting insurance regulator on the FSOC. Indeed, even when the FSOC insurance expert is appointed and the FIO is fully operating, only the NAIC and the state regulators have the functional insurance regulatory expertise and the millions of insurance sector data elements that FSOC requires and deserves. FSOC participation is heavily weighted to the banking and securities sectors, and with FSOC moving forward on a rapid timeline of implementation, the credibility of FSOC decisions that impact insurance will be jeopardized without appropriate insurance regulatory participation in these efforts. Simply hiring more staff at the FIO and appointing an independent member will not change this fact.

We disagree with the argument put forward by the Department that the role of the state insurance regulator on FSOC is simply to represent his state agency. Congress delegated the choice of the appropriate regulator to a decision of all the state insurance regulators clearly indicates that this FSOC member was intended to represent the state insurance regulatory system, and not merely one state's insurance department. As is the case with the Department and all other FSOC member agencies, no one individual (or team, division, etc.) has all the answers and expertise necessary to meet FSOC's broad mandate. We would argue that Congress intended FSOC members to be supported by the experts from within their regulatory systems, from financial analysts to investment experts to actuaries, to answer the tough questions and review the data necessary to assess the entire breadth of the financial system. Indeed, Congress called on state regulators to select the appropriate representative rather than arbitrarily selecting someone to fill this position. State regulation of insurance is a complex system that relies on the collaboration, information sharing, and expertise of regulators from around the country, and is built on a platform of robust financial reporting and analysis supported by the NAIC. Clearly, Director Huff needs to call upon the resources of that complex system, and not merely the employees of the state of Missouri. To illustrate this point, we acknowledge and appreciate that three NAIC employees have been allowed to support Director Huff already, but this level of participation is not remotely sufficient.

While the NAIC staff members assigned to support Director Huff have valuable expertise, no three individuals can have the depth of knowledge with all insurance regulatory topics necessary for full, active, and effective participation in the activities of FSOC. In addition to NAIC support, Director Huff may need assistance from insurance regulators in other states, as FSOC has nine separate committees and subcommittees that conceivably are working on issues relevant to insurance. Since he began his participation on the FSOC, Director Huff has repeatedly requested the Council to allow him to tap the NAIC and the state insurance departments for additional staff support in relevant issue areas, but these requests have met with resistance and delay and Director Huff has been prohibited from discussing or seeking guidance from relevant state regulators even on a confidential basis. State insurance regulators confront and store highly confidential information each day, and virtually every state insurance department has Memoranda of Understanding for confidential information sharing with federal agencies. The issue of confidentiality should not be an obstacle to our constructive participation.

We note the absence of any statutory restrictions in the Dodd-Frank Act that would preclude Director Huff from engaging the additional expertise he deems necessary to provide meaningful input to FSOC

deliberations. Any additional NAIC staff members or state regulators enlisted to support Director Huff would sign appropriate confidentiality agreements that impose the same confidentiality restrictions as the three staff members who presently support him. Under such circumstances, increasing the number of state regulator and NAIC staff supporting the work of FSOC would not create any additional confidentiality risk but would undoubtedly provide the FSOC with desperately needed state insurance regulatory expertise.

This is a critical issue for the FSOC, the regulation of insurance, and for insurance consumers, who deserve to have state insurance regulatory experts providing guidance on the far reaching issues at FSOC that will affect the future of financial services. We hope you and the other FSOC members will work with us in reaching a reasonable accommodation to address these important concerns as soon as possible, ultimately providing FSOC the insurance expertise it requires. We look forward to discussing this with you further and should you have any questions, please do not hesitate to contact Ethan Sonnichsen, Director of Government Relations, at 202-471-3980 or Moira Campion McConaghy, Manager of Government Relations, at 202-649-4997.

Sincerely,



Susan E. Voss, Commissioner  
Iowa Insurance Division  
NAIC President



Kevin M. McCarty, Commissioner  
Florida Office of Insurance Regulation  
NAIC President-Elect



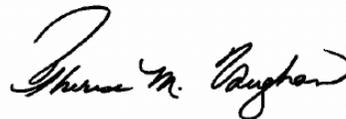
James J. Donelon, Commissioner  
Louisiana Department of Insurance  
NAIC Vice-President



Michael T. McRaith, Director  
Illinois Department of Insurance  
NAIC Secretary-Treasurer



John M. Huff, Director  
Missouri Department of Insurance,  
Financial Institutions & Professional Registration  
FSOC Member



Therese M. Vaughan, Ph.D.  
NAIC Chief Executive Officer

cc:

The Honorable Sheila Bair, Chairperson, Federal Deposit Insurance Corporation  
The Honorable Ben Bernanke, Chairman, Board of Governors of the Federal Reserve System

The Honorable Edward DeMarco, Acting Director, Federal Housing Finance Agency  
The Honorable Gary Gensler, Chairman, Commodity Futures Trading Commission  
The Honorable Debbie Matz, Chairman, National Credit Union Administration  
The Honorable Mary Schapiro, Chairman, Securities and Exchange Commission  
The Honorable John Walsh, Acting Comptroller of the Currency  
The Honorable William Haraf, Commissioner, California Department of Financial Institutions  
The Honorable David Massey, Deputy Securities Administrator, North Carolina Department of the  
Secretary of State, Securities Division