

May 20, 2014

Chairman Randy Neugebauer  
Subcommittee on Housing and Insurance  
Committee on Financial Services  
U.S. House of Representatives  
2129 Rayburn House Office Building

Ranking Member Michael Capuano  
Subcommittee on Housing and Insurance  
Committee on Financial Services  
U.S. House of Representatives  
B301-C Rayburn House Office Building

Dear Chairman Neugebauer and Ranking Member Capuano:

On behalf of the National Association of Insurance Commissioners (NAIC)<sup>1</sup>, we write today in support of H.R. 4510, the “Insurance Capital Standards Clarification Act of 2014” and H.R. 4557, the “Policyholder Protection Act of 2014.”

As the regulators of insurance in the U.S., we are keenly aware of the many complicated considerations involved in setting capital standards appropriate for insurers, which necessarily have different risk profiles and liquidity needs than banks. H.R. 4510 seeks to address potential confusion with respect to the requirements that should apply to Savings and Loan Holding Companies (often referred to as “Thrift Holding Companies”) with significant insurance operations or insurers that are designated systemically important financial institutions. We have long had concerns that the application of bank-like capital standards to insurance companies is not only inappropriate but could be detrimental to policyholder protection and financial stability. H.R. 4510 addresses this concern by ensuring that the Federal Reserve has the flexibility to tailor capital requirements appropriate to the insurance business model and is not otherwise statutorily bound to impose “one size fits all” bank centric standards.

We also write today in strong support of H.R. 4557, which provides assurance that critical regulatory protections for policyholders will be consistent across insurer organizational structures. This bill clarifies that state regulators can preserve the walls around insurance legal entities that have protected policyholders for more than 150 years. Our state based regulatory regime is designed with the primary mission of protecting policyholders by ensuring that a company has sufficient funds to pay insurance claims when they come due. One of the most important tools state regulators have to carry out this mission is the ability to protect or “wall off” the insurance legal entity from contagion in the rest of the company by preventing its funds or other assets from being used by other affiliated entities.

In cases where an insurance company is affiliated with a bank, it is subject to additional supervision by banking regulators. Where an insurer is organized as a Bank Holding Company, the Bank Holding Company Act contains procedural protections that limit banking regulators’ ability to compel the movement of funds or other assets from the insurer to a troubled bank within the group. However, at this time, most insurance companies affiliated with banks are organized as Savings and Loan Holding Companies. The law governing

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<sup>1</sup> 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.

Savings and Loan Holding Companies does not contain the same protections, and the source of financial strength provisions in the Dodd-Frank Act call into question whether policyholders are protected in the Savings and Loan Holding Company context.

This is a serious source of concern for state insurance regulators. If a healthy insurer, organized as a Savings and Loan Holding Company, were compelled by the banking regulators to use its resources to provide funds or other assets to a troubled affiliate, the insurer's ability to pay out claims could be undermined and consumers could be harmed. In certain scenarios it is possible that an insurance company could even become insolvent as a result, and policyholders might not obtain the full value of the promise their premiums paid for. While insurance regulators recognize that there may be circumstances where it may be appropriate for an insurer to provide assistance to a troubled affiliated bank, forcibly removing funds or other assets from an insurer to bail out a troubled bank should not be done at the expense of policyholders, and certainly not without the protections afforded by the Bank Holding Company Act.

H.R. 4557 addresses this concern by ensuring that the protections afforded to policyholders of insurance companies in Saving and Loan Holding Company systems match those in Bank Holding Company systems and those that are not affiliated with a bank. By ensuring the same policyholder protections exist to irrespective of an insurance company's structure, H.R. 4557 helps guarantee that a promise made by an insurance company is a promise kept. Consumers who have come to rely on insurance policies issued by companies in Saving and Loan Holding Company systems to protect their home, livelihood, or retirement will have the same protections as those who purchased their policy from other types of insurance companies

We commend Congressman Posey for introducing and Congressman Sherman for co-sponsoring this common-sense piece of legislation that protects policyholders in Thrift Holding Company systems. We urge you to support this important effort to enhance consumer protection. Should you wish to discuss this letter or any other matter relating to the NAIC's views on this legislation, please do not hesitate to contact Ethan Sonnichsen, Director of Government Relations, at (202) 471- 3980 or Mark Sagat, Counsel and Manager, Financial Policy and Legislation, at (202) 471-3987.

Sincerely,



Adam Hamm  
NAIC President  
North Dakota Insurance Commissioner

cc: The Honorable Bill Posey, U.S. House of Representatives  
The Honorable Brad Sherman, U.S. House of Representatives  
The Honorable Gary Miller, U.S. House of Representatives  
The Honorable Carolyn McCarthy, U.S. House of Representatives