November 16, 2015

Re: Policyholder Protection Act of 2015 (H.R. 1478)

Dear Member of Congress:

On behalf of the National Association of Insurance Commissioners (NAIC)[1], we urge you to support the "Policyholder Protection Act of 2015" (H.R. 1478). This bipartisan legislation clarifies that state insurance regulatory tools designed to protect policyholders will be available regardless of insurance company structure or financial circumstance.

Insurance companies in the United States are subject to a stringent regulatory regime 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 insurance regulators have to carry out this mission is the ability to protect, or "wall off", the insurance legal entity from contagion within a large and diverse financial group by preventing its funds or other assets from being used by affiliated entities. In the unlikely event that an insurance company requires resolution, insurance regulators have broad authorities to determine the best course of action to ensure that claims will continue to be paid to insurance consumers. Together, these authorities provide critical safeguards that have long protected insurance consumers. This legislation clarifies that these authorities will continue to be available to protect consumers irrespective of insurance company organizational structure and irrespective of whether an insurance company is resolved by state insurance regulators pursuant to state law or an insurance company affiliate is resolved by the Federal Deposit Insurance Corporation (FDIC) pursuant to federal law.

First, the bill provides certainty that state regulators' authority to wall off assets to pay policyholder claims will be consistent across insurer organizational structures. State regulators have long-standing authority under state law to wall off insurance company assets designated for the benefit of policyholders; these authorities apply to insurers organized as Bank Holding Companies under federal law, but the law governing savings and loan holding companies (SLHCs) does not contain the same procedural protections. This bill will extend the policyholder protections in the Bank Holding Company Act and in state law to SLHCs, thereby creating a level playing field and clarifying that the same set of rules applies across insurer organizational structures.

[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.

Second, under the Dodd-Frank Act, state insurance regulators have authority to liquidate or rehabilitate troubled insurance companies. This legislation will make clear that state insurance regulators can use the most appropriate resolution strategy to protect policyholders first and foremost.

Lastly, state insurance regulators have long-standing authority to protect policyholder assets from contagion emanating from an affiliate through their ability to review material transactions and to protect policyholders in resolution proceedings. Under present law, the FDIC could take a lien on the assets of an insurance company affiliated with a systemic bank holding company requiring resolution without regard to its impact on the insurer's policyholders. The Policyholder Protection Act will codify an existing FDIC rule requiring the FDIC to take into account the impact on policyholders of the insurance company before taking a lien. It also requires the FDIC to notify state insurance regulators of its intent to take a lien on insurance company assets, and to consult with them regarding the impact that such lien would have on the insurance company and its consumers.

We urge your support for this legislation that clarifies insurance regulators' authority to protect insurance consumers, regardless of a company's organizational structure or financial circumstance. As financial firms become more complex, it is essential that state insurance regulators continue to have the ability to specifically protect insurance-related assets in order to pay claims when they come due.

Sincerely,

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