GOVERNMENT RELATIONS

ISSUE BRIEF

701 HALL OF STATES
444 NORTH CAPITOL STREET N.W.
WASHINGTON, D.C. 20001
202-471-3990
www.naic.org

NAIC
National Association of Insurance Commissioners
The CENTER for INSURANCE POLICY and RESEARCH

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The Business of Insurance Regulatory Reform Act

- *The NAIC supports the Business of Insurance Regulatory Reform Act (H.R. 3746, S. 2702) which seeks to clarify the exemption granted by the Dodd-Frank Act for persons regulated by a state insurance regulator and those engaged in the business of insurance from the scope of CFPB (Consumer Financial Protection Bureau) jurisdiction.*

- *The CFPB has sought to test the limits of its authority in several instances relating to insurance despite the deference to state insurance regulators' authority contained in the Dodd-Frank Act.*

- *It is appropriate for Congress to periodically reassess the operationalization of a new agency like the CFPB to clarify the limits of its authority and minimize redundancies or confusion that add undue costs ultimately passed on to consumers.*

Background

The Dodd-Frank Act places two general restrictions on the authority of the CFPB over the business of insurance. Title X of the Act prohibits the CFPB from enforcing the provisions of the Dodd-Frank Act against "any person regulated by a state insurance regulator" and it grants an exemption for the "business of insurance" from the list of financial products and services subject to CFPB's jurisdiction. In doing so, the CFPB authorizing statute appropriately seeks to defer to the expertise and track record of state insurance regulators who have broad reaching powers that are designed specifically for addressing misconduct in the insurance sector—remedies range from fines to consumer remediation to license revocation, among other enforcement actions.

As an agency primarily created to exercise consumer protection functions previously under the authority of federal banking regulators, the CFBP does not have the necessary expertise to appropriately evaluate the conduct of insurers. Nevertheless, the CFPB has sought to take actions in the insurance sector that may be inconsistent with the existing exemption as evidenced by regulatory actions taken on subject matter such as mortgage insurance, life insurance policy loans, gap/auto insurance and insurance sales practices. Given the interconnected nature of our financial sector and the relative newness of the CFPB, it is understandable that some unintended overlap or duplication of effort with other regulators can occur. The Business of Insurance Regulatory Reform Act clarifies the Business of Insurance exemption to effectuate existing statutory deference and ensure consumers are protected.

Other Key Points

- ✓ The state-based insurance regulatory system has protected insurance consumers for nearly 150 years.

- ✓ In exempting the business of insurance from CFPB authority, Congress intended for insurance regulators to continue to exercise its primary jurisdiction over the insurance sector for the protection of insurance consumers. The Business of Insurance Regulatory Reform Act will further effectuate the statutory deference to state insurance regulators already contained within the Dodd-Frank Act.

- ✓ Insurance regulators are ready and willing to coordinate with the CFPB to resolve issues affecting the business of insurance that may come to the attention of federal agencies and would welcome notice of any violations of consumer laws.

Ethan Sonnichsen, Director, Government Relations ESonnichsen@naic.org
Mark Sagat, Assistant Director, Financial Policy and Legislation MSagat@naic.org
Heather Eilers-Bowser, Financial Policy and Legislative Counsel heilersbowser@naic.org