



Government Relations • 701 Hall of the States, 444 North Capitol St., N.W. • Washington, DC 20001 • 202-471-3990 (main)

October 23, 2009

Dear Member of Congress:

The National Association of Insurance Commissioners (NAIC) strongly opposes the Manager's Amendment to H.R. 2609 (the Federal Insurance Office Act) in its current form, and urges changes to restore the intent and scope of the originally introduced legislation.

The NAIC values federal efforts to improve financial regulation, and we agree that doing so will require a better understanding of insurance and increased access to regulatory data at the federal level. We also recognize that the states do not have the Constitutional authority to enter into nationally binding regulatory agreements without federal action, although the need for such agreements is rare and should therefore be subject to a high degree of scrutiny and involvement by the affected regulators, if not additionally by the Congress. It is also important to note that the federal government already has broad authority to enter into binding trade agreements to open foreign markets for U.S. insurers and to open U.S. markets for foreign insurers, and there is extensive consultation with Congress, Governors, state legislators and regulators before any agreement preempts state insurance regulation.

With these facts in mind, state insurance regulators worked closely with Congressman Kanjorski and Congresswoman Biggert on H.R. 2609, which was carefully crafted with broad support to create a federal office with narrow authority to implement mutual recognition or equivalence agreements. Additionally, a fundamental principle of our support for H.R. 2609 was that the office must not supplant functional regulation of insurance by the states.

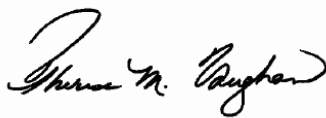
The Managers' Amendment departs from that approach by enabling the office to enter into "international agreements on prudential measures." This term is derived from an exception to trade agreements, which allows a country to exempt broad regulatory power from trade discussions under the premise that preserving that authority is necessary for the solvency and stability of domestic financial markets. Consequently, granting such broad authority to the Treasury to negotiate these types of agreements over insurance would unravel the exception and constitute a significant shift of authority from the states to the federal government, and is something we strongly oppose. State solvency and prudential regulation has protected insurance consumers from the worst of the financial crisis, and should not be subject to preemption by an office in the Treasury. If dramatic change to the core of insurance regulation is necessary, those changes should be made at the state level, and if ever necessary, preemption of state laws should be carried out in a targeted way by the Congress with input from the functional regulators – not embedded in authority given to an office in Treasury.

Therefore, the NAIC strongly opposes the Manager's Amendment to H.R. 2609 without the following changes to preserve the original legislation's intent, scope, and protections:

- *The phrase "international insurance agreement on prudential measures" should be stricken from the legislation wherever it appears, and replaced with the term "covered agreement" and its corresponding definition as it appears in the introduced version of H.R. 2609*
- *The scope of the FIO's preemption authority must be narrowed by striking the words "or indirectly" on page 7, line 3 of the Manager's Amendment*
- *To ensure that state solvency regulation of insurers is effectively protected, insert a new paragraph 2 on page 11, line 6 " (2) preempt any State insurance measure governing an insurer's capital or solvency requirements, except to the extent that such requirements treat a non United States insurer less favorably than a United States insurer."*
- *Given that the Secretary's authority to negotiate agreements is in a separate section from the clause retaining existing state regulatory authority, that retention should be expanded to the entire Act by striking the word "section" on page 11, line 16, and replacing it with the word "Act"*
- *To ensure meaningful consultation with an affected state regarding potential preemption, on page 7, line 24 of the Manager's Amendment, insert "(ii) notify and consult with the affected state regulators regarding any potential inconsistency or preemption;"*
- *It is an inherent conflict for the Director of the FIO to consider the need to expand the federal government's authority. On page 8 of the Manager's Amendment, strike lines 16 through 20*

Thank you for your attention to this matter. For more information, please contact Ethan Sonnichsen or Moira Campion McConaghy of the NAIC Washington Office at (202) 471-3990.

Sincerely,

A handwritten signature in cursive script that reads "Therese M. Vaughn".

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