



*Independent Insurance Agents
& Brokers of America, Inc.*

**STATEMENT OF SPENCER M. HOULDIN
ON BEHALF OF THE
INDEPENDENT INSURANCE AGENTS & BROKERS OF AMERICA
BEFORE THE
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON FINANCIAL SERVICES**

October 6, 2009

Good morning Chairman Frank, Ranking Member Bachus, and Members of the Committee. My name is Spencer Houldin, and I am pleased to be here today on behalf of the Independent Insurance Agents and Brokers of America (IIABA). Thank you for the opportunity to provide our association's perspective on proposals to create a federal office of insurance. I serve as Chairman of the IIABA Government Affairs Committee as well as the Connecticut representative on the IIABA Board of Directors. I am also President of Ericson Insurance, a

Connecticut-based independent agency that offers a broad array of insurance products to consumers and commercial clients across the country.

IIABA is the nation's oldest and largest trade association of independent insurance agents and brokers, and we represent a network of more than 300,000 agents, brokers, and employees nationwide. IIABA represents small, medium, and large businesses that offer consumers a choice of policies from a variety of insurance companies. Independent agents and brokers offer a broad range of personal and commercial insurance products.

The Economic Crisis and State Insurance Regulation

Over the past year, this Committee has held many important hearings on the economic crisis and on proposals to reform and rebuild our nation's financial regulatory structure. The events of the last twelve months raise many serious questions about the state of financial markets, the manner in which they are regulated, and the appropriate regulatory reforms. Congress has faced and continues to face many challenges and difficult policy questions, and I commend you for your diligent, thorough, and responsible efforts to date. As you continue to identify and assess existing problems and determine what actions this Committee should take, it is important to note that state insurance regulation has performed with distinction throughout the crisis and has greatly outshined its federal counterparts in other financial sectors.

IIABA has long supported state regulation of insurance, and the sensibility of that position has been reinforced and strengthened over the last year. During a tumultuous time, state insurance regulators have admirably and effectively ensured that insurers are solvent, that claims are paid, and that consumers are protected. These state officials have decades of experience, outnumber their banking and securities counterparts, handle countless inquiries and questions

from consumers, and understand the concerns and the often unique issues facing the citizens in their areas. State insurance regulation has a long and stable track record of accomplishment – especially in the areas of solvency regulation and consumer protection – but its benefits and merits have never been more apparent.

State regulation is imperfect and can certainly be improved (including through the use of targeted federal action), but the economic crisis also highlights and reinforces the pitfalls and serious deficiencies associated with creating an optional federal insurance regulatory system. When large financial services entities are permitted to select the regulator of their choice, they will select the path of least resistance and the system that best serves their business interests. That choice may not be – and is often not – what is in the best interest of the consumer, and our nation now has ample evidence of what can arise when regulatory arbitrage of this nature occurs.

Establishing a Federal Insurance Office (FIO)

The Administration and the Treasury Department released their much anticipated regulatory reform blueprint – entitled *Financial Regulatory Reform: A New Foundation* – in June. The comprehensive 88-page white paper appropriately did not call for the dismantling or sweeping overhaul of state insurance regulation, but it did propose the establishment of a non-regulatory insurance information office within the Treasury Department. The creation of such an office has previously been championed by Capital Markets Subcommittee Chairman Paul Kanjorski and others on this Committee, and the Capital Markets Subcommittee passed a well-crafted version of this legislation in 2008.

Although IIABA strongly supports state insurance regulation and would oppose any effort to undermine that system, we recognize the benefits that can be achieved by establishing a

non-regulatory body at the federal level that is able to review industry data, advise federal officials on critical insurance issues, and coordinate efforts on international insurance matters. It is imperative, however, that any statute authorizing the establishment of an insurance information office be designed carefully and with the proper safeguards and not “set the stage” for federal insurance regulation.

IIABA supports H.R. 2609 as introduced in May, but we have significant concerns with several of the revisions unveiled in the discussion draft circulated by the Committee late last week. The version introduced by Chairman Kanjorski just several months ago was a carefully constructed and thoroughly vetted proposal with proven bipartisan support, and it also had near unanimous support from what is often a highly splintered insurance market. Industry voices on all sides of the insurance regulatory reform debate expressed support for the bill upon its introduction, and the National Association of Insurance Commissioners previously voiced its support for that particular version as well. We strongly hope any legislation adopted by this Committee will closely resemble the original iteration.

There are several critical elements of the original version of H.R. 2609 that are – at a minimum – essential to any legislation that creates a federal insurance information office. Specifically, any proposal should make clear that the office does not possess supervisory or regulatory authority over the business of insurance. H.R. 2609 contains several provisions that ensure that neither the insurance office nor the Treasury Department would possess such authority, but these are not part of the new discussion draft. IIABA therefore encourages the Committee to add a provision stating that nothing in the proposal may be construed to establish a general supervisory or regulatory authority of the office or the Treasury Department over the business of insurance. In the alternative, language could be added to prohibit the application of

the preemption provisions in instances where preemption will result in: (1) a need to establish a general supervisory or regulatory authority of FIO or the Treasury Department over any entity involved in the business of insurance or insurance operations in the United States, or (2) a gap or void in the financial or market conduct regulation of any entity involved in the business of insurance or insurance operations in the United States.

IIABA also believes the information gathering provisions of any proposal should ensure that the insurance information office is not redundantly and inefficiently collecting information available elsewhere, and H.R. 2609 included important protections governing how certain data may be obtained and utilized. In addition, the discussion draft will have the unintended effect of enabling this office to compel main street insurance agents to produce data and information upon demand. We therefore urge the Committee to revise the definition of “insurer” so that it applies, as it should and as intended, only to insurers and reinsurers. At the very least, we believe that this office should be required to establish an exemption to the submission requirements for all covered entities meeting a minimum size threshold, instead of only permitting the office to set up a de minimis exemption as current language sets forth. Explicitly requiring such an exemption would ensure that small agencies and insurers are not unduly burdened by information demands.

Any legislation should also include clear and meaningful administrative and procedural provisions for the handling of any preemption deliberations, but the discussion draft eliminates many of the due process protections and requirements contained in the original version. We therefore urge the Committee to establish additional safeguards that would apply in those instances when the office is considering whether a state law should be preempted, such as:

- Requiring that the U.S. or its representative coordinate with state regulators on international insurance issues and confer with regulators before entering into an

International Insurance Agreement on Prudential Measures in order to identify the potential impact and preemptive effects the agreement might have on existing law;

- Enable affected states and aggrieved parties to appeal a final preemption determination to the Secretary;
- Revise the definition of “International Insurance Agreement on Prudential Measures” to ensure that such agreements adequately protect U.S. consumers; and
- Delete the ambiguous phrase “directly or indirectly” from the preemption standard in §313(f)(1)(A).

The modifications proposed above are important elements of H.R. 2609 and do not adversely affect the overall substance and effect of the legislation. We believe that these changes would ensure that the scope of powers of this office are limited and focused and would eliminate any concern of regulatory mission creep. Our preeminent concern and focus is ensuring that the insurance information office does not operate as a de facto federal insurance regulator or serve simply as a precursor to federal insurance regulation. It has repeatedly been stated, from when this legislation was introduced last year to when the concept was embraced by the Administration earlier this year, that the FIO is not meant as a step towards federal regulation. Our conditional support for this concept is tied directly to these commitments. Therefore, any overt or subtle efforts to make the insurance office look more like a regulatory body or to set it up to become a forerunner to federal regulation – either by providing it with regulatory power or analyzing whether it should eventually be given regulatory authority – would unfortunately force IIABA to vigorously oppose any such proposal.

Conclusion

State insurance regulation has a strong track record of regulating insurers and protecting consumers, and it has been particularly successful over the last year. Nevertheless, most objective observers recognize that the state system suffers from certain inefficiencies. State insurance regulation has been criticized because (1) state officials are unable to enter into international insurance agreements, which hinders their ability to represent the United States in international insurance discussions and (2) there is a lack of institutional insurance knowledge in the nation's capital. The establishment of a non-regulatory insurance information office with limited and delineated responsibilities would effectively address these two challenges. Such targeted legislation would fill the void of insurance expertise that currently exists at the federal level and remedy many of the problems faced by insurance industry participants in the global economy.