

**Statement of**

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**On Insurance Regulation And Competition for the  
21st Century**

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Services Subcommittee on Capital Markets,  
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My name is Maurice R. Greenberg, Chairman and Chief Executive Officer of American International Group, Inc. (AIG). AIG is the world's leading U.S.-based international insurance and financial services organization, the largest underwriter of commercial and industrial insurance in the United States, and among the top-ranked U.S. life insurers.

I commend the Committee's leadership in conducting hearings on the future of insurance regulation, and I also appreciate the opportunity to submit this statement for the record.

I strongly support providing insurers with a federal charter option. A federal charter would promote greater efficiency in the delivery of insurance products and services and significantly reduce unnecessary regulatory costs. Although I recognize that the States are pursuing a number of insurance reform initiatives, the institutional constraints they confront make Congress the only body that can bring consistent and lasting improvements to today's regulatory regime.

It should surprise no one that the business of insurance has experienced extraordinary changes since the McCarren-Ferguson Act was enacted in 1945. While the fundamental objective of ameliorating risk remains the same, we have moved into a global economy with an ongoing stream of varied products and mechanisms designed to achieve this goal. A regulatory system that is not responsive or adaptive to the evolving demands of our ever-changing marketplace will fail consumers and insurers alike.

Unfortunately, the current balkanized system of state regulation has proven insufficiently capable to meet these demands, especially for insurers and consumers operating on a national or international basis. Duplicative, conflicting, and inconsistent state rules create uncertainty, delay the introduction of new products, significantly increase compliance costs, create state-by-state barriers to entry, and reduce benefits to consumers. Even where there is disagreement on whether the states or federal government are best equipped to fix this situation, few would support maintaining the status quo.

Several proponents of a federal charter have presented testimony to the Committee and I agree with their description of today's flaws and the need for federal involvement. Nevertheless, I want to emphasize three points that I believe are critically important for Congress to recognize as it considers whether to move forward in this area.

1. Maintaining an exclusive state-based regulatory system is inherently flawed and will never achieve national uniformity;
2. Federal regulation of insurance should seek to improve and not merely replicate existing state regulatory practices; and
3. Efforts to achieve comprehensive reform should not preclude Congress from taking incremental steps to improve certain insurance markets today.

## **Inherent State Flaws**

I understand that many people sincerely believe that the National Association of Insurance Commissioners (NAIC) or the States acting in concert can develop a uniform and modernized version of state insurance regulation that works for all of us. I also want to acknowledge the efforts of those who are aggressively pursuing these changes today. However, actual experience strongly suggests that such efforts will fall short of where we need to be.

Simply put, the “States” are not a uniform entity. The States (and various territories) comprise 50-plus unique and dynamic sovereignties subject to a plethora of competing needs, demands, and institutional constraints. Even making the optimistic assumption that one day, all 50 state insurance regulators could agree and commit to a specific regulatory program over a course of years, these regulators are not necessarily the final word. I’m not aware of any state-based reform proposal that would preclude state legislatures from changing any such agreement before the ink dries, let alone constrain the actions of successor insurance regulators.

Indeed, issues -- many of which this committee has studied -- vividly demonstrate the real-world shortcomings of states trying to implement uniform, national insurance standards.

A prime example is privacy. Under the Gramm-Leach-Bliley Act, Congress directed the various functional regulators to write implementing privacy regulations for financial institutions under their respective jurisdictions. For insurers, this task fell to individual state insurance authorities. While federal functional regulators completed their full rulemaking process within the statutory deadline of November 2000, the story for the states was entirely different.

Working through the NAIC, a Model Rule for states *merely to consider* was not adopted until September of that year. Moreover, despite Congressional instructions for all regulators to develop rules that were consistent with one another, the NAIC made several substantial deviations from federal rules, including expanding definitions to cover commercial insurance products and proposing separate rules for health information. To compound this problem, several individual states made their own “minor” changes to the NAIC Model while other states required legislative action which invited more changes.

In the end, while federally regulated entities were provided substantial lead time to implement complex privacy compliance programs, insurers faced a federally mandated effective date with virtually no rules in place and conflicting proposals pending across most states.

Similar problems have been experienced regarding producer licensing and terrorism coverage initiatives, where the states have, again, shown troubling delays and

inconsistency. In this often Kafkaesque environment, a federal charter option with strong preemption language is the only way to secure meaningful uniform standards.

### **Improving Regulatory Practices**

Achieving uniformity at a national level is a big step in the right direction. However, Congress will miss a great opportunity to make significant regulatory advancements if it merely transposes existing state regulatory practices onto a federal system.

Chief among these state requirements is the prior approval of rates and forms, an unnecessary procedure for federally chartered commercial insurers. In addition, Congress should give serious consideration to the ramifications of replicating or utilizing the state guaranty fund system for federally licensed insurers. In our view, while the current guaranty system clearly affords insureds a certain level of protection, this protection comes with significant costs. Specifically, guaranty funds create perverse incentives for unsound underwriting practices. The cost of reckless underwriting is then ultimately passed onto good insurers (and their consumers) who abide by far more disciplined underwriting standards. Consequently, Congress should explore more effective options than the counterproductive guaranty fund approach.

### **Incremental Reforms**

The majority of proposals seeking an optional federal charter for insurers contemplate comprehensive reform covering most types of insurance products. The comprehensive nature of these proposals is a significant contributing factor to the more dire predictions that Congress will be unable to deal with this issue anytime soon. However, Congress should not be so limited in its options.

Many of the questions contributing to delay involve the extent of consumer protections needed and how to enforce them. These issues tend to be of greater concern to individual consumers of personal lines products or smaller businesses, who are more reliant on the regulatory resources of the Government to protect against improper actors in the marketplace.

On the other hand, there are sophisticated market participants who are fully capable of freely engaging in commercial insurance transactions without the need for elaborate regulatory protections. For instance, I have not seen many interest groups advocating market conduct protections for Fortune 500 companies seeking general liability coverage in the 50 states from Triple-A rated insurers.

While our ultimate objective should be to provide an optional federal charter for all insurance products, Congress should not foreclose the opportunity to enact incremental reforms if consensus cannot be obtained on a comprehensive measure. Specifically, it may be easier for Congress to establish a more limited program covering commercial property and casualty lines for “higher-end” commercial users. For example,

an optional federal charter could apply to commercial products encompassing a minimum threshold of premium paid or coverage provided. I would not envision the need for guaranty funds for these types of lines. Instead, the primary federal regulatory role would be to establish solvency standards and procedures to monitor the continued financial health of federally chartered insurers. This step would pose the smallest risk to individual consumers while providing the foundation for expanding the federal charter option to a broader range of products.

Before closing, I believe it's important to note the unprecedented attention Congress has given to the insurance industry since September 11<sup>th</sup> and its relationship to the debate confronting this Committee. The terrorist attacks clearly demonstrated to Congress that insurance capital is finite and that state-by-state mandated coverage and rules threaten the solvency of numerous insurers in the absence of federal intervention. Moreover, we've seen how the diminished number of willing providers of insurance coverage can have a significant impact on investment and economic growth. Although I would still be advocating the efficiency of an optional federal charter if the attacks of September 11<sup>th</sup> never occurred, the new threats we face only intensify the need for a more uniform, streamlined, efficient, and affordable system of regulation.

In conclusion, Congress has a unique opportunity to greatly improve the functioning of an industry that plays an instrumental role in promoting our nation's economic health. The costs of the balkanized state system of insurance regulation are borne not by insurers alone, but by insurance consumers across the nation and by the economy as a whole. It's time for Congress to bring insurance regulation into the 21<sup>st</sup> century marketplace and I urge the committee to seize that opportunity. I am confident that your efforts will bear fruit sooner rather than later.