**STATEMENT OF THE**
**INDEPENDENT INSURANCE AGENTS & BROKERS OF AMERICA**

**SUBCOMMITTEE ON CAPITAL MARKETS, INSURANCE,**
**AND GOVERNMENT SPONSORED ENTERPRISES**

**FINANCIAL SERVICES COMMITTEE**

**UNITED STATES HOUSE OF REPRESENTATIVES**

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Good afternoon Chairman Baker, Ranking Member Kanjorski, and Members of the Subcommittee. My name is Tom Ahart, and I am pleased to have the opportunity to give you the views of the Independent Insurance Agents & Brokers of America (IIABA) on the current state of insurance regulation and IIABA's views on the role Congress can play to eliminate the flaws in the current system. I am President of the Ahart, Frinzi & Smith Insurance Agency in Phillipsburg, New Jersey. I also currently serve as President of the IIABA.

IIABA is the nation's oldest and largest national trade association of independent insurance agents and brokers, and we represent a network of more than 300,000 agents, brokers and agency employees nationwide. IIABA members are small, medium and large businesses that offer customers a choice of policies from a variety of insurance companies. Independent agents and brokers offer all lines of insurance—property, casualty, life, health, employee benefit plans and retirement products.

## Introduction

At the outset, Chairman Baker, I must note that IIABA applauds the subcommittee and full committee's continuing efforts to analyze and assess the challenges that face the state-based system of insurance regulation. Last summer, we were afforded the opportunity to testify at a hearing you held examining the manner in which states currently oversee and approve insurance products, and that hearing brought to light many of the inefficiencies, idiosyncrasies, flaws, delays and redundancies associated with the existing system of oversight and review. It is our expectation that this hearing is another step in what promises to be a comprehensive and ongoing process, and we hope we will have the opportunity to present our views at each and every stage of your deliberations on these crucial questions.

In the year that has passed since that last hearing, the perceived need for reform has increased. The enactment of financial services modernization legislation and the emergence of an increasingly more consolidated, more global financial services industry have sparked new interest in the concept of an "optional" federal insurance charter and, more generally, in federal regulation of the business of insurance. Proponents of such proposals argue that federal insurance regulation would promote greater uniformity, reduce costs and cause less frustration than the current multi-state system.

IIABA believes it is essential that all financial institutions be subject to efficient regulatory oversight and that they be able to bring new and more innovative products and services to market quickly to respond to rapidly evolving consumer demands. Over the last two weeks, this subcommittee has heard testimony concerning the deficiencies and inefficiencies that exist today, and there is no doubt that the current state-based regulatory system must be reformed and modernized. At the same time, however, the current system is exceedingly proficient at insuring that insurance consumers—both individuals and businesses—receive the insurance coverage they need and that any claims they may experience are paid. These aspects of the state system are working well, and this Committee has heard no testimony to the contrary. The optional federal chartering proposals, however, would displace these well-running components of state regulation as well and, in essence, thereby "throw the baby out with the bathwater."

As we have for over 100 years, IIABA strongly supports state regulation of insurance—for all participants and for all activities in the marketplace. Yet despite this historic and longstanding support, we are not confident that the state system will be able to resolve its problems on its own. In fact, we feel there is a vital and immediate role for Congress to play in helping to reform the state regulatory system, and such an effort need not replace or duplicate what is already in place at the federal level. We propose that two overarching principles should guide any such efforts in this regard. First, Congress should attempt to fix only those components of the state system that are broken. Second, no actions should be taken that in any way jeopardize the protection of the insurance consumer, which is, at bottom, the fundamental objective of insurance regulation.

Under the proposal that IIABA has been developing in conjunction with a broad-based group of insurers and insurance producers, these overarching principles would be satisfied through an approach under which—

(1) Every insurer, agent and broker would be subject to only a single—albeit a state—regulator for licensing determinations, solvency regulation, financial audits, corporate transaction reviews and corporate governance requirements;

(2) The procedures under which states review proposed insurance policy forms would be limited to 30 days, and the requirements that apply to rate approvals essentially would be eliminated for any insurance coverage sold in a "competitive" marketplace; and

(3) Although no substantive consumer protection requirements would be eliminated or displaced, incentives for states to create compacts to streamline the market conduct examination process would be provided and limitations would be placed on the ability of state regulators to conduct "fishing expedition"-type examinations.

To explain the rationale under girding this approach, I will first offer an overview of both the positive and the negative elements of the current insurance regulatory system. I will then provide a more complete explanation of IIABA's proposal to address the negative while retaining the positive elements of the current system.

### 1. The Current State of Insurance Regulation

As the United States Supreme Court has so aptly put it, "[p]erhaps no modern commercial enterprise directly affects so many persons in all walks of life as does the insurance business. Insurance touches the home, the family, and the occupation or the business of almost every person in the United States."[1] "It is practically a necessity to business activity and enterprise."[2] Insurance serves a broad public interest far beyond its role in business affairs and its protection of a large part of the country's wealth. It is the essential means by which the "disaster to an individual is shared by many, the disaster to a community shared by other communities; great catastrophes are thereby lessened, and, it may be, repaired."[3] Thus, it is "the conception of the lawmaking bodies of the country without exception that the business of insurance so far affects the public welfare as to invoke and require governmental regulation."[4] Since the inception of the business of insurance in the United States, it is the states that have carried out that essential regulatory task. Today, state insurance departments employ over 11,000 individuals and address hundreds of thousands of consumer complaints and inquiries annually, and they draw on over a century-and-a-half of regulatory experience they endeavor to protect the insurance consumers of this country.

These core regulatory tasks of state insurance regulators can essentially be divided into the following eight categories:

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1 *United States v. South-Eastern Underwriters Ass'n*, 322 U.S. 533, 540 (1944).
2 *German Alliance Ins. Co. v. Lewis*, 233 U.S. 389, 415 (1914).
3 *Id.* at 413.
4 *Id.* at 412.

(1) Regulation of the coverage parameters of insurance contracts;
(2) Sales practices regulation;
(3) Claims practices regulation;
(4) Claims dispute mediation/resolution;
(5) Claims payment guarantees—state guaranty funds regulation and solvency regulation;
(6) Claims payment guarantees—qualification standards and financial audits;
(7) Insurer licensing, merger review and corporate governance regulation; and
(8) Insurance agent/broker licensing and qualifications to do business regulation.

As a general matter and as explained in more detail below, the regulatory performance of the state system on the first five of the eight categories—all of which directly involve regulation of the interaction between the consumer and the insurer——is superlative. It is only with respect to determining and monitoring insurers, agents, and brokers' qualifications to do business and financial health that the state system has developed the inefficiencies that are now the focal point of the cries for reform.

### a. The Positive—Protecting Consumers and Ensuring Claims Are Paid

The goal of all insurance is to protect the purchaser (or their heirs) from calamity. At its most basic level, this means that the consumer purchases an insurance contract and, in exchange for the premium paid for that contract, the consumer receives a promise from the insurance company that they will be compensated for any losses they experience that are covered under that contract. From the consumer perspective, it is imperative that the insurance contract be adequate for their needs and that the insurer actually pay any claims that are made under that contract. In both of these respects, the historical performance of state insurance regulators is impeccable—they ensure that necessary coverage minimums are included in insurance contracts and, perhaps even more importantly, they make sure legitimate claims are paid.

Regulators play two very distinct roles in ensuring that claims are paid. First, they are responsible for guaranteeing that funds are available to pay any and all claims that arise. Despite their best efforts to oversee and audit insurers' financial solvency, insurance companies—like national banks and savings and loans—sometimes fail. The state system of insurer guaranty funds—which are like Federal Deposit Insurance Corporation (FDIC) insurance but for insurance companies instead of banking institutions—works. It has paid out over $11 billion to cover claims asserted against insolvent insurers since they were first created in the mid-1970s, and none of that money has been at taxpayer expense.

Second, state regulators play a vital role in mediating disputes that arise on a daily basis between consumers who have submitted claims and insurers who contend that the claims either are illegitimate or are not covered by the insurance policy. The respective bargaining positions between tens of millions of insureds—such as individuals and small businesses—and their

insurers is tremendously skewed. Insurance consumers therefore regularly rely on the intervention of state regulators on their behalf when claims disputes arise. Large segments of every insurance department in the country are dedicated to assisting with the resolution of such disputes, and all available evidence suggests that insurance consumers are very satisfied with those local efforts.

### b. The Negative—Product Regulation and Duplicative Oversight

If you review all of the testimony you have received to date, it becomes evident that all of the perceived shortcomings of state regulation of insurance fall into two primary categories—it simply takes too long to get a new insurance product to market, and there is unnecessary duplicative regulatory oversight in the licensing and post-licensure auditing process.

In many ways, the "speed-to-market" issue is the most pressing and the most vexing from both a consumer and an agent/broker perspective because we all want access to new and innovative products that respond to identified needs. The reality of today's marketplace is that banking institutions and securities firms are able to develop and market new and more innovative products and services quickly, while insurance companies are hampered by lengthy and complicated filing and approval requirements in all 50 states. As a result, insurance companies —and, derivatively, agents and brokers selling their products and services—are at a competitive disadvantage compared to their counterparts in other financial services industries.

Today, insurance rates and policy forms are subject to some form of regulatory review in nearly every State, and the manner in which rates and forms are approved and otherwise regulated can differ dramatically from State to State and from one insurance line to the next. While most insurance codes provide that policy rates shall not be inadequate, excessive or unfairly discriminatory, and that policy forms must comply with state laws, promote fairness, and be in the public interest, there are a multitude of ways in which States currently regulate rates and forms. These systems include prior-approval, flex-rating, file-and-use, use–and-file, competitive-rating and self-certification. These requirements are important because they not only affect the products and prices that can be implemented, but also the timing of product and rate changes in today's competitive and dynamic marketplace.

The current system, which may involve seeking approval for a new product or service in up to 55 different jurisdictions, is too often inefficient, paper intensive, time-consuming, arbitrary and inconsistent with the advance of technology and regulatory reforms made in other industries. As you have heard previously, it often takes two years or more to obtain regulatory approval to bring new insurance products to market on a national basis. Cumbersome inefficiencies create opportunity costs, and the regulatory regime in many States is likely responsible for driving many consumers into alternative markets mechanisms. As a result, the costs of insurance regulation are exceeding what is necessary to protect the public, particularly in the area of commercial insurance. In order to keep insurers competitive with other financial services entities and maximize consumer choice in terms of the range of products available to them, changes and improvements are needed.

Similarly, insurers are required to be licensed in every State in which they offer insurance products, and the regulators in those states have an independent right to determine whether an insurer should be licensed, to audit its financial solvency and market-conduct practices, to review mergers and acquisitions, and to dictate how the insurer should be governed. With the exception of market-conduct examinations, it is difficult to discern how the great cost of this duplicative regulatory oversight is justified, especially in light of the fact that the underlying solvency requirements are essentially identical from State to State. Market conduct examinations present a somewhat more thorny issue because, although the majority of sales and claims practices requirements and prohibitions are similar across the country, there are local variations. It is, of course, difficult for a regulator to determine compliance with another jurisdiction's requirements. At the same time, it seems wholly unnecessary for each regulator to examine every insurer on every aspect of their compliance practices given that there is such an extensive overlap in requirements.

### 2. Solutions

Although heroic efforts have been made to date, state regulators and legislators face the near impossible challenge of addressing and remedying the identified deficiencies unilaterally. For the most part, these reforms must be made by statute, and state lawmakers face practical and political hurdles and collective action challenges in their pursuit of such improvements on a national basis. Despite the actions of the States on producer licensing reform over the last two legislative sessions, real-world realities suggest that it is extraordinarily difficult, if not impossible, to pass identical bills through the 50 state legislatures

Although the proposed optional federal chartering proposals might correct certain deficiencies, the cost is incredibly high. The new regulator would serve to add to the overall regulatory infrastructure—especially for agents and brokers selling on behalf of both state and federally chartered insurers—and undermine sound aspects of the current state regulatory regime. The best characteristics of the current state system from the consumer perspective would be lost if some insurers were able to escape state regulation completely in favor of wholesale federal regulation. Federal models propose to charge a distant and likely highly politicized federal regulator with the implementation and enforcement of a single set of rules that would apply equally across all States and all insurance markets. Such a distant federal regulator may be completely unable to respond to insurance consumer claims concerns and its mere creation could spark fears that this will prove to be the case. Nor can a single regulatory system harmonize the diversity of underlying state reparations laws, varying consumer needs from one region to another, and differing public expectations about the proper role of insurance regulation. The potential responsiveness of a federal regulator to both industry and consumer needs in several critical areas could therefore jeopardize the fundamental purpose of insurance regulation and must be considered questionable at best.

That the States are better positioned than the federal government to accommodate this diversity or to respond to change, however, is not an adequate defense to the charge that insurance regulation has failed to adapt to changes in the industry and the markets it serves. Weaknesses exist in state regulation today. Unnecessary distinctions among the States and inconsistencies within the States thwart competition, reduce predictability and add unnecessary expenses to the

cost of doing business. Similarly, outdated rules and practices do not serve the goals of regulation in today's financial services marketplace. Nevertheless and as noted previously, there is much that is good about the current state-based system that would be jettisoned through the creation of a federal regulator, including an enforcement infrastructure upon which consumers throughout the nation heavily rely to protect their interests. Federal charters and the establishment of a full-blown, unprecedented, untested and likely politicized regulatory structure at the federal level are not the answer.

What is needed is a third way—a system that builds on, rather than dismantles, the States' inherent strengths to meet the challenges of a rapidly changing insurance environment. It must include mechanisms to promote the establishment of more uniform and consistent regulations and regulatory procedures, but must be poised to respond faster and more fully to the reality of electronic distribution and to emerging industry trends such as globalization and consolidation. It must modernize areas in which existing requirements or procedures are outdated, while continuing to impose effective regulatory oversight and necessary consumer protections. The result, for all stakeholders, should be a more efficient, modernized and *workable* system of insurance regulation.

For the last year, IIABA has been spearheading a cooperative attempt to develop just such a proposal. We have been working with other trade associations and directly with an array of national and regional insurers in an effort to identify precisely what must be fixed and how that might be done without displacing the components of the current system that work so well and without creating additional layers of government bureaucracy. Through this process, four specific areas for reform and the constraints on the mechanisms for that reform have been identified, and we have begun assembling a draft proposal for accomplishing these reforms. In my remaining testimony, I will outline the four components of this draft proposal.

### a. Rate and Form Filing and Review/"Speed to Market" Reform

As previously discussed, the product regulation requirements in most States require insurers to file new rates and forms with the insurance commissioner and obtain formal regulatory approval before introducing them in the marketplace. Accordingly, an insurer that wishes to introduce a new product on a national basis may be forced to seek approval in up to 55 different jurisdictions. The process can be inefficient, paper intensive, time-consuming, arbitrary and inconsistent with the advance of technology and the regulatory reforms made in other industries. These cumbersome inefficiencies create unnecessary costs and delays, reduce industry responsiveness and drive many consumers into alternative market mechanisms. The regulatory regime in many States exceeds, in terms of scope and cost, what is necessary to protect the public.

In evaluating potential solutions to these problems, it is essential to recognize that uniformity is very difficult to achieve for property and casualty lines product regulation. Due to geography and other factors, some States must take into account issues that other States need not address. In addition, States may subject rates and forms to different levels of regulatory scrutiny, and personal lines and commercial lines products might also be treated differently.

Consumer protection concerns also limit the range of potential options to some extent. The concern is that the quicker and easier it is to have a new product or rate approved, the less protection consumers will receive. The solution thus must strike a balance between timely and quality reviews and appropriate consumer protections. In addition, "race to the bottom" and "turf" concerns have to be taken into account. Particularly under a scheme that employs a single point of review, States that use more stringent rate and form processes will be hesitant to accept the introduction of products or policies approved under more lenient guidelines. We believe it is possible, however, to strike an appropriate balance between realizing meaningful speed-to-market reform and protecting consumer interests.

Based on these objectives and considerations, the IIABA proposal is designed to do three things: (1) make the system more market-oriented; (2) make the system faster; and (3) create greater accountability. On the *form approval* side of the equation, this would be accomplished by preempting any state law that requires more than allowing all proposed forms (both commercial and personal lines) to be used no later than 30 days after they have been filed with the insurance commissioner unless the rate or form is disapproved within that time period. Under such a system, an insurer must at most file a proposed form with the insurance department 30 days in advance of the proposed effective date, and the form be used at that time unless affirmatively disapproved by the regulator. If a department affirmatively approves the filing at any time within the 30-day period, the insurer may use the form immediately. Under the proposal, regulators would be entitled to a single 15-day extension of this disapproval period if an approval application is incomplete, and more permissive state filing/approval requirements would not be affected.

Under this approach, the current requirement that filings be done in every state in which the product will be offered would not be disrupted and current state form requirements would not be preempted (except as discussed below). In both the personal and commercial lines context, any disapproval must be articulated in writing and be based substantively on a properly promulgated statute, regulation or final court order. Many regulators have historically disapproved policy forms based on unpublished and unsubstantiated "desk drawer rules," but such actions would be impermissible under our approach. As noted previsously, more permissive form filing and approval requirements would not be displaced by the federal rules.

Under our draft proposal, *rate approval* is treated much differently than form approval because the competitive market generally is the most efficient and effective regulator for rates. At the same time, in markets that are not sufficiently competitive, regulators need to retain the ability to monitor rates and to intervene to disapprove rates when necessary. Accordingly, under the draft proposal, any regulatory review requirement for rates in competitive markets that requires more than the filing of the rates with the insurance department would be preempted. States, however, will remain empowered to approve or disapprove rates in "non-competitive" markets if an affirmative finding has been made determining that the market is "non-competitive." That determination would be subject to federal court scrutiny under the proposal.

### b. Producer Licensing

Insurance agents and brokers must be licensed in every State in which they conduct business, and many producers face considerable hurdles in complying with inconsistent, duplicative and unnecessary licensing requirements when they operate on a multi-state basis. Although state licensing reforms adopted over the last two years offer great promise, additional improvements and refinements are necessary. The core proposal that we are developing to address this problem is to mandate licensing reciprocity in all states and thus achieve meaningful licensing reform that is national in scope. This could be accomplished by prohibiting a State in which an agent or broker is seeking to be licensed on a non-resident basis from imposing any licensure requirement on that person other than submission of proof of licensure in their home state and the requisite fee. Under a reciprocal licensing system that is national in scope, any individual agent or broker would only be confronted by a single set of licensing requirements.

The largest potential impediment to such a proposal is the concern by some that it could create incentives for certain States to establish lenient requirements with the hope that producers might flock there for resident licenses. Such a "race to the bottom" would be detrimental to the goal of fair, responsible regulation. To address the concern, the draft proposal would empower the NAIC to establish minimum standards for licensure. Only agents or brokers licensed as a resident in states that satisfy these minimum standards would be able to benefit from the preemption of state licensing authority over non-resident agents. If an agent or broker resides in a state that does not adopt the minimum-licensing standards, the proposal would explicitly enable that producer to apply to a state in which they do business and that has adopted such minimum standards to be licensed as a resident. Through this mechanism, Congress also could dictate minimum licensing standards. Under the draft proposal, for example, the minimum licensing standards would be required to include the performance of a criminal background check, utilization of standardized licensing cycles and application forms and fees in the filing process, imposition of a standardized trust account requirement for use in any state that requires maintenance of such accounts, and the mandatory availability of agency-level licenses.

### c. Company Licensing/Transaction Review/Corporate Governance/Insolvency Standards/Financial Audits

Like insurance agents and brokers, insurers currently must be licensed by every State in which they do business. They also must satisfy a variety of corporate organization, solvency and governance requirements and go through multiple reviews of proposed corporate transactions (i.e. change in control, mergers and acquisitions) and financial audits. Insurers need a single set of requirements; requisite compliance with the rules of multiple states creates delays and adds unnecessary costs without adding any tangible consumer benefit. Compliance with multiple audit procedures also is needlessly inefficient, costly and administratively cumbersome for insurers.

As in the insurance producer context, in developing potential solutions, the possibility of a race to the bottom and regulatory turf concerns of state insurance departments must be considered. In particular, state insurance departments likely will be hesitant to accept licensing, solvency and

auditing determinations made by other States where the insurer does a significant amount of business in their States.

Regulation in this area also must contemplate the financial risks at stake if insurer solvency is not sufficiently regulated and companies become financially unsound. Concerns about possible strains on the guaranty system and the need for bailouts (such as in the savings-and loan-crisis) are never far from the surface when dealing with this area of regulation.

To remove duplicative and inconsistent requirements and examination procedures while at the same time maintaining sufficient protection for policyholders and the public, the proposal for companies tracks the producer licensing proposal by preempting the ability of all States to impose any licensing/transaction, review/corporate or governance/solvency standards or requirements on any non-resident company that is licensed by a State that is accredited by the NAIC. An insurer would be able to select as its "home state" either its State of domicile or its State of incorporation. States still would be free to require non-resident companies to be licensed but only upon proof of home-state licensure and the submission of a fee. The draft will clarify that any company that satisfies such federal "passport" requirements can offer products in a non-resident state even if the state does not try to license them through the federally approved process (if the state does license in a federally permissible way, an insurer would have to comply with the state requirements, however). Hence, although any State could impose more stringent requirements on its resident companies, the system would remain uniform from the perspective of each individual insurer because each insurer would need to comply with only one set of substantive requirements.

To stem a potential "race to the bottom," a company will be required to be licensed in an "accredited" state in order to use its license as a passport to do business in other states and have the preemption outlined above apply to its activities in those non-resident states. The legislation would empower the NAIC to continue to conduct the accreditation process, subject to two new requirements.

First, additional accreditation requirements would have to be incorporated into the NAIC's accreditation requirements, including the new producer licensing minimum standards and any company minimum licensing, solvency or other standards that Congress chose to incorporate.

Second, the NAIC's accreditation criteria and any determination that a State is (or is not) accredited would be subject to review and disapproval either by a federal agency or by a federal court. Such oversight would be limited to reviewing NAIC determinations regarding what standards must be satisfied to become accredited and applications of those standards to states that have applied for accreditation.

To ensure that no company would be penalized (and thus unable to qualify for the "passport" rights) by virtue of the fact that it is domiciled in a non-accredited state, the legislation would permit an insurer to choose an alternative state of "residence" for licensing purposes if its state of domicile and its state of incorporation both are not accredited. Tentatively, the legislation will allow such an insurer to be licensed in the accredited state in which it does the most business based on premium volume. This should increase the pressure on all states to become accredited.

The legislation also must account for the possibility that the NAIC will refuse to implement the program and/or that the States will decide to boycott the process. In either event, the legislation will incorporate the back-up provisions included in NARAB. Hence, either if the NAIC refuses to implement the accreditation procedures as required under the Act or if a majority of States do not become accredited within a specified number of years, an independent body would be established either to stand in the shoes of the NAIC in conducting the accreditation process or—if States refuse to comply—to act as a licensing clearinghouse so that insurers will qualify for the licensing/solvency/etc. single set of requirements envisioned under the overarching approach. The proposal utilizes a combination of the NARAB back-up provisions and the Risk Retention Act non-resident state regulatory provisions to create these fall-back sets of provisions. The tighter they are designed, the less likely it is that the NAIC and/or the States will refuse to comply with the intended NAIC accreditation procedures.

#### d. Market Conduct Examinations

Insurers are subject to examinations from insurance departments in multiple States. Exam procedures are inefficient and requirements are duplicative as a result of lack of coordination between States. Multiple exams are costly and administratively cumbersome for insurers. There often does not appear to be a sound justification for the examination and there are no restrictions on most insurance department's exercise of their market conduct examination power.

At the same time, however, it must be noted that market conduct directly involves consumer protection issues and, as a result, turf concerns and political concerns can be prevalent. Moreover, the focus of market conduct examinations is supposed to be on sales practices that occur where the customer is located rather than where the company resides, undermining the practicality of mandating a home-state regulation approach.

To reduce the administrative costs of compliance by clarifying the circumstances under which a regulator of a non-resident insurer may conduct examinations, the frequency with which such examinations may be conducted, and the review procedures that will apply, the proposal would require that, in the non-resident state, examinations may be conducted only to review compliance with properly promulgated statutory and regulatory requirements, and that no insurer can be deemed to have "failed" such an examination unless it is provided with an explanation in writing that sets forth the statutory and/or regulatory requirement that allegedly has been violated. The proposal includes a provision permitting any claim that a regulator is exceeding the scope of his or her authority to be brought in federal court.

In an effort to facilitate greater coordination of market conduct examinations where appropriate, the proposal includes a provision authorizing and encouraging the use of multi-state compacts to facilitate market conduct examinations.

## Conclusion

Although IIABA supports the preservation of state regulation of the business of insurance, we believe that reforms to the current system are necessary and essential. Specifically, IIABA believes the best alternative for addressing the current deficiencies in the state-based regulatory system is a pragmatic, middle-ground approach that utilizes federal legislative tools to foster a more uniform system and to streamline the regulatory oversight process at the state level. By using federal legislative action to overcome the structural impediments to reform at the state level, we can improve rather than replace the current state-based system and in the process promote a more efficient and effective regulatory framework.

Rather than employ a one-size-fits-all regulatory approach, a variety of legislative tools could be employed on an issue-by-issue basis to take into account the realities of today's marketplace and to achieve the same level of overall reform as the imposition of a federal regulator. The specific ideas outlined above are just a few of the many specific solutions that could be adopted under this type of approach. Instead of relying on the agenda of a displaced and possibly politicized federal regulator, however, insurance regulation would continue to be grounded on a more solid foundation—the century-and-one-half worth of skills and experience that the States have as regulators of the insurance industry. The advantage of this approach is that it offers the best of all worlds. It will promote the establishment of more uniform standards and streamlined procedures from State to State, protect consumers while enhancing marketplace responsiveness, and emphasize that the primary goals of insurance regulation can best be met by improving, not abandoning, the state-based system that has been in place for over 150 years.