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April 13, 2017

The Honorable Steven T. Mnuchin
Secretary of the Treasury
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Dear Secretary Mnuchin**:**

I am writing as a follow-up to my March 16 letter on the issue of the recently completed U.S.–European Union (EU) covered agreement dealing with insurance regulation. We appreciate the Treasury Department's stated and demonstrated commitment to listening to the concerns of all the stakeholders involved. NAMIC has participated in numerous meetings with your staff over the last several weeks in which we shared our view that the covered agreement did not put the interests of the U.S. insurance industry first and urged that it not simply be signed.

NAMIC is the largest property/casualty insurance trade association in the country – with more than 1,400 member companies representing 39 percent of the market – and as such, we trust our views on this matter carry weight. But we would also like to highlight the serious concerns with the current covered agreement expressed by other key stakeholders: namely, state governors, state insurance commissioners, state legislators, and federal legislators.

In an April 7 letter, the National Governors Association called the agreement "ambiguous in several respects" and asked the Treasury Department not to sign the agreement but instead "seek clarification on the terms of the Agreement before states are forced to make changes to insurance laws, regulations, and procedures. Also on April 7, 24 members of the House of Representatives lead by Rep. Sean Duffy sent their own letter requesting that "the agreement not be signed without formal clarifications to ambiguous points in the agreement through an exchange of letters." Similarly, the National Association of Insurance Commissioners sent a letter on March 15 stating that "there is significant confusion…regarding the nature of the obligations to be taken, the purported benefits that were gained, and the concessions that were made." The commissioners further called for formal clarification of many aspects of the agreement and recommended that "absent such assurances, we urge you to formally reopen negotiations as we are deeply concerned about the prospect of the states making significant changes to its [sic] insurance laws, regulations, and procedures that inure to the benefit of the EU and its insurance sector without our sector receiving certainty surrounding their business activities in the EU." Finally, state legislators represented through the National Conference of Insurance Legislators sent their own letter on March 17, stating that "NCOIL opposes the covered agreement and views it as an intrusion by the federal executive branch, and by extension international authorities, into the U.S. state-based system of insurance regulation that has effectively protected consumers and helped create the largest, most competitive and innovative insurance market in the world."

As it is the governors, state insurance commissioners, and both state and federal lawmakers that will be responsible for fulfilling most aspects of the agreement and its implementation, we have serious concerns about moving forward without their buy-in. Coupled with the concerns U.S. insurers have about the specifics of the covered agreement, NAMIC believes there is ample reason to not sign the agreement as is and to instead take time to carefully consider other options.

As I outlined in my previous letter, we believe the covered agreement, reached in the closing days of the previous administration, does not solve the fundamental problems that the Federal Insurance Office and the United States Trade Representative committed to resolve when negotiations began. Namely, the recognition of the U.S. insurance regulatory system as "equivalent" under Europe's Solvency II regulatory regime, thereby ending the unfair retaliation by European regulators against US-based companies. In addition, the agreement is ambiguous, unclear, and adds new group supervision and group capital requirements that are incompatible with the U.S legal entity regulation of insurance companies. Further, the agreement establishes a new process for future negotiations based on a moving target of regulatory priorities established by European officials.

We would continue to encourage the Treasury Department to begin a clarification process or to reopen negotiations in an effort to reach an agreement that puts American interests first.

Thank you for your consideration.

Sincerely,

Charles M. Chamness
President and CEO

CC: Vice President Mike Pence
The Honorable Gary Cohn

The Honorable Wilbur Ross
The Honorable Mick Mulvaney
The Honorable Steve Vaughn
The Honorable Mitch McConnell
The Honorable Chuck Schumer
The Honorable Paul Ryan
The Honorable Nancy Pelosi
The Honorable Mike Crapo
The Honorable Sherrod Brown
The Honorable Jeb Hensarling
The Honorable Maxine Waters