Regulation of the Property/Casualty Insurance Industry

There are continuing efforts to create a regulatory role for the federal government in the insurance arena, including the potential creation of an optional federal charter.

**NAMIC opposes** the creation of a duplicative federal regulatory system or other federal/dual regulation for property/casualty insurance companies.

Property/casualty insurance is highly dependent on local factors and NAMIC believes that the introduction of a federal regulatory structure, even on an optional basis, could have unintended consequences for the entire industry.

**Background**

Mutual property/casualty insurance companies today are a critical component of the American economy. Property/casualty insurance companies on the whole are very well capitalized and are in no danger of insolvency. Their prudent management and conservative approach to long-term stability are particularly well suited to protecting consumers on Main Streets across America.

States have been the sole regulator of most insurance products since the beginning of the insurance industry in America. In adopting the McCarran-Ferguson Act in 1945, Congress recognized the central role of the states in the regulation of insurance.

State and local laws determine coverage and other policy terms. Reparation laws affect claims. Local accident and theft rates impact pricing. Climate – hurricanes, earthquakes, etc. – differ significantly from state to state. The state regulatory system recognizes and responds to these differences.

For years, the debate over insurance regulatory reform revolved around the creation of an optional federal charter (OFC). There were those in the industry that viewed the creation of an OFC proposal as a corrective to what they saw as a complicated and disjointed national regulatory structure for insurance.

There were also those that believed – like NAMIC – that effective modernization of the insurance regulatory structure could best be accomplished at the state-level. Opponents of an OFC are concerned with the unintended consequences for the entire industry. We argue that allowing the federal government to set up a dual charter system for insurance has the potential to lead to costly, confusing, and duplicative regulations that could affect all insurers.

There are several important reasons why the federal government would not create a more effective regulatory regime for property/casualty insurers. Creating new regulations at the federal level has the potential to go much further than necessary. What begins as an optional federal charter may well result in mandatory additional regulations and costs. The property/casualty insurance industry remained stable and solvent throughout the recent financial crisis in part due to the state-based regulatory structure.
Rather than simply creating an alternative regulatory scheme for those who seek it, the OFC could dilute the effectiveness of the current structure.

In the 111th Congress, long-time supporters of an OFC, Reps. Melissa Bean, D-Ill., and Ed Royce, R-Calif., introduced the National Insurance Consumer Protection Act. The bill called for creating an office in the Treasury with the authority to organize, incorporate, operate, regulate, and supervise national insurers, national insurance agents, and national insurance producers. It would have also defined national standards for company activities such as accounting, risk management, internal controls, investments, and reinsurance. The office would have also been responsible for recommending to the Financial Stability Oversight Council any insurance companies that would be required to be regulated at the federal level as systemically risky.

In addition, the bill would have established a division of consumer affairs with an office in each of the 50 states and a centralized call center to respond to consumer questions and complaints related to national insurers and producers. The creation of a duplicative federal insurance consumer protection system would be costly, confusing for consumers, and ultimately weaken existing consumer protections.

Further, the legislation would have also created a national guaranty fund financed by assessments on federally chartered insurers. National insurers would still have been required to participate in state guaranty funds for every state in which they do business. This dueling set of national and state guaranty funds would weaken both systems. Interaction and coordination of the duplicative guaranty systems would confuse and delay settlements. The state guaranty fund system is a highly effective mechanism through which the industry polices and supports itself.

While the Bean-Royce bill was never considered during the 111th Congress, there remains a significant constituency that continues to push for federal regulation of some kind and the potential for similar legislation being introduced in the 112th Congress remains.

NAMIC believes that while the state-based system is far from perfect, continuing regulatory modernization efforts at the state level will ensure the best, most competitive future for the property/casualty insurance industry.

For more information on the property/casualty insurance regulation go to [http://www.namic.org/federal/fedissues.asp](http://www.namic.org/federal/fedissues.asp)