

May 22, 2017

The Honorable Steven T. Mnuchin  
Secretary  
Department of the Treasury  
1500 Pennsylvania Avenue, N.W.  
Washington, DC 20220

Dear Secretary Mnuchin:

I write to follow-up on my April 13 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 and testified on the issue at two hearings held by Congress.

NAMIC is the largest property/casualty insurance trade association in the country with more than 1,400 member companies representing 39 percent of the U.S. market. Our membership remains very concerned about the prospect of the Covered Agreement being ratified without clarifications needed to resolve several ambiguities. It is critical that these clarifications be obtained prior to ratification to ensure that the U.S. insurance industry and U.S. policyholders are protected. We believe these clarifications can be obtained through a formal exchange of letters with the EU prior to ratification. This is a common practice and can be done without reopening negotiations on the text of the document.

The issues NAMIC believes must be clarified include mutual recognition for the U.S. insurance regulatory system, consistency of reinsurance collateral with U.S. law, clarification that the U.S. group capital calculation yet to be created will be accepted by the EU without condition, and a commitment that the Joint Committee will include state insurance regulators for all matters. The specifics of each issue are included below:

- **Mutual Recognition** – There is no statement in the Covered Agreement draft that the U.S. is mutually recognized by the EU. We request a clarifying statement that once the agreement is signed the parties will provisionally *mutually recognize* each other’s reinsurance, group supervision, group capital, and confidentiality/privacy regimes. Additionally, we request a clarifying statement that once all conditions and requirements are met in the Covered Agreement the agreement will provide *permanent mutual recognition* under Solvency II for U.S. law and regulation for the insurance sector. This is no more and no less than what the U.S. stated it was planning to achieve in the negotiations (See attached Treasury letter notifying Congress of Covered Agreement

negotiations, November 2015). This clarification is vital because it reflects the intent and purpose of the agreement. Without such language, U.S. insurance companies doing business internationally will receive unfair and duplicative regulatory treatment in the EU.

- **Reinsurance Collateral** – Former FIO Director Michael McRaith has testified that the language in the Covered Agreement was intended to include all state legal requirements for reinsurance collateral. This is true except for the omission of the standard of creditworthiness and its application to EU reinsurers seeking zero collateral. This oversight can be corrected by confirmation that an EU reinsurer's creditworthiness can be considered by the U.S. supervisors in determining the reinsurer's qualification for zero collateral as set forth in the NAIC Credit for Reinsurance Model Law and Regulation. This is important to ensure that any U.S. insurers buying reinsurance from EU companies that are less financially strong will be protected with collateral.
- **Group Capital** – The Covered Agreement sets forth prospective criteria for a group capital assessment that has not been designed or adopted by the NAIC at this time. We seek confirmation that the EU will accept the final version of the NAIC's group capital calculation in whatever form ultimately adopted by the NAIC. This is critical for the U.S. companies that do not do business in foreign countries as well as those that do.
- **Joint Committee** – The Agreement has no language about who participates in the Joint Committee. We request a clarifying statement that insurance regulators will be included as members and full participants of the Joint Committee and that the Joint Committee will not address issues outside the scope of the Covered Agreement. This added commitment will ensure that the regulators who actually supervise the U.S. insurance industry will be present to provide practical solutions to issues that may arise under the agreement.

Clarification in these areas is essential before the agreement is signed. Waiting for a misunderstanding to arise after the U.S. has signed the Agreement – or when adverse action has been taken against U.S. insurance companies by the EU – would not be prudent. We encourage the Treasury Department to begin the clarification process to reach an agreement that ensures that American interests have been fully protected.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Charles M. Chamness', with a stylized, flowing script.

Charles M. Chamness  
President and CEO

CC: Vice President Mike Pence  
The Honorable Robert Lighthizer  
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