

An hourglass-shaped graphic with a globe in the top bulb and another globe in the bottom bulb. The hourglass is light blue and has a dark blue top and bottom. The globe in the top bulb is dark blue, and the globe in the bottom bulb is light blue. The text is centered within the hourglass.

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Insurance Regulation: Major Interest Groups

Baird Webel, Government and Finance Division

April 7, 2008

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Insurance Regulation: Major Interest Groups

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Summary

Insurance companies in the United States have been regulated at the state level for the past 150 years, and the various insurance related interest groups have been largely state oriented. As a result, there is limited familiarity on the national level with these insurance industry-related interest groups or how they differ in their positions on federal legislation. Current legislation, such as the National Insurance Act (S. 40 and H.R. 3200), the Nonadmitted and Reinsurance Reform Act (H.R. 1065 and S. 929), and the National Association of Registered Agents and Brokers Reform Act (H.R. 5611) has focused congressional and industry attention on the possibility of federal regulation of the insurance industry. This report is intended to assist in understanding the issues inherent in creating a federal system of insurance regulation by providing some insight into the interests of organizations most involved in the issue. It will be updated as major events occur.

Introduction

Insurance companies comprise a major segment of the U.S. financial services industry. Unlike banks and other financial institutions that are regulated primarily at the federal level, insurance companies have been regulated by the states for the past 150 years. Although a number of changes in this regulatory system have been proposed at the federal level, the system has remained largely untouched by these proposals.¹

There is broad agreement that the current system needs to be made more uniform and efficient, but there is widespread disagreement as to what approach should be taken to achieve this goal. Broadly speaking there are three approaches: (1) continue the current state-based system with the National Association of Insurance Commissioners (NAIC) leading harmonization efforts; (2) create a federal charter and federal regulatory system; or (3) leave the states as lead regulators but with specific federal mandates or preemptions to produce a more uniform system.

In the 110th Congress, Senators Sununu and Johnson introduced S. 40, the National Insurance Act, and Representatives Melissa Bean and Ed Royce introduced a similar, but not identical, companion bill, H.R. 3200. The National Insurance Act takes the second approach, proposing an insurance regulatory system that would be roughly modeled on the dual state/federal regulation that now exists for the banking industry. It would give insurance companies the option to be chartered and regulated by a newly established federal regulator rather than by current state regulators.

The third approach was first embodied in broad bill, the State Modernization and Regulatory Transparency (SMART) Act, drafted by in the 108th and 109th Congresses and the subject of a June 16, 2005 hearing chaired by Representative Richard Baker. Although drafts of the SMART Act circulated, it was never officially introduced. Two narrower bills leaving the state system intact but preempting and harmonizing parts of it have, however, been introduced in the 110th Congress—the Nonadmitted and Reinsurance Reform Act (H.R. 1065 and S. 929) by Representative Dennis Moore and Senators Mel Martinez and Bill Nelson, and the National Association of Registered Agents and Brokers Reform Act (H.R. 5611) by Representative David Scott.

Perhaps contrary to general perception, the insurance industry is not a monolithic industry, but a very competitive one serving multiple markets. Companies range in size from multiline insurers serving the entire county to small “captive” insurers that may insure a single company. In general, insurers fall into two broad segments: life/annuity/health insurers and property/casualty insurers. Some companies are organized as stock companies, whereas others operate as mutual or fraternal companies. Some companies are very large in size, whereas others are mid-size or small. Some companies specialize in large commercial accounts, whereas others write personal lines of business such as homeowners, automobile, or individual life and health policies. Still others concentrate on reinsurance, or the selling of insurance to insurance companies to assist them in spreading their risks.

Many insurance companies and their producers/agents are members of various trade associations that represent their interests before state legislatures and insurance regulators. It is estimated that

¹ For more information on insurance regulation and congressional action, see CRS Report RL32789, *Insurance Regulation: Issues, Background, and Current Legislation*, by Baird Webel.

there are more than 300 insurance-related trade associations and professional organizations operating in the United States and Canada.² Most of these organizations are state oriented, but some are now contacting Members of Congress to express their differing positions on the optional federal chartering or other proposals before Congress. These differences are due in large part to the diversity in segments and lines of business, company structure, size, and insurance markets in which insurers operate.

Life Insurance Company Associations

Life insurers as a group generally support optional federal chartering proposals, because their products are more national in scope. That is, life products are based on actuarial tables of life expectancy that vary little across state lines and tend to be more standardized than non-life products. Major commercial banks seeking life insurance functions, or affiliates in the insurance industry, also tend to prefer national federal charters to match their own, and to ease their own entry into life insurance markets nationwide. Within the life industry, it is usually the larger insurers that actively seek federal chartering. Smaller insurers, serving more regional markets, tend to be neutral or opposed.

ACLI: American Council of Life Insurers <http://www.acli.com>. ACLI is the major trade association for life insurance and annuity companies. In 2008, it reports that its 353 members account for 93% of the life insurance premiums and 94% of annuity considerations in the United States. Some ACLI members also write long-term care and disability income insurance products. The ACLI has developed its own proposals for optional federal chartering of life insurance companies in the past and “strongly” endorses the National Insurance Act.

LICONY: Life Insurance Council of New York <http://www.licony.org>. LICONY is the state trade association of 47 New York life insurance companies. Despite its state focus, several of its largest members are strong supporters of federal optional chartering.

NALC: National Alliance of Life Companies <http://www.nalc.net>. NALC is an association that represents smaller life insurance companies. As an association, it is open to federal proposals on insurance regulation as long as they do not disadvantage small insurers.

Property and Casualty Associations

In the property and casualty (P/C) segment of the industry, support for federal chartering is more prevalent among the large old-line insurers writing commercial lines of coverages. Much of the rest of the industry is opposed to direct federal regulation but open to some federal intervention, such as Representative Baker’s proposal. The smaller P/C insurers usually argue their personal line products such as auto and homeowners insurance are inherently local in nature, with differing state legal requirements and precedents that are best addressed and regulated at the state level.

AIA: American Insurance Association <http://www.aiadc.org>. AIA is the oldest P/C association, with roots dating back to 1866. It has approximately 350 insurance company members that write more than \$123 billion in premiums each year. Its members are generally large old-line commercial insurers. AIA is based in Washington, DC. AIA generally supports federal optional

² See one such listing at <http://www.ultimateinsurancelinks.com>.

charter legislation, particularly legislation that incorporates the deregulation of premium rates and policy forms.

PCI: Property Casualty Insurance Association of America <http://www.pciaa.net>. PCI was formed following the January 2004 merger of the Alliance of American Insurers and the National Association of Independent Insurers (NAII). It represents more than 1,000 companies that have a combined premium volume of \$173.6 billion in the United States. In the past, both the Alliance and the NAII were supportive of the state regulatory system and skeptical towards federal chartering proposals. The PCI generally maintains this stance, preferring the SMART Act's approach to a federal charter.

NAMIC: National Association of Mutual Insurance Companies <http://www.namic.org>. NAMIC represents more than 1,400 insurers who write over 40% of the P/C insurance premium in the United States. Most of NAMIC's members are small local or regional mutual companies. NAMIC opposes federal chartering, maintaining that modernization can be accomplished without creating a federal bureaucracy. It supports H.R. 1065/S. 929.

RAA: Reinsurance Association of America <http://www.raanet.org>. Reinsurance is best thought of as "insurance for insurance companies," which allows primary insurers to spread their risks and increase their capacity to write new business. Reinsurance is recognized as a global business, and the RAA's mission is to advance the interests of the U.S. P/C reinsurance industry. The RAA is headquartered in Washington, DC, and generally supports a federal chartering system.

Health Insurance Associations

Much of the health insurance segment of the insurance industry, especially that portion writing employee benefit plans, is already directly or indirectly regulated at the federal level. However, health insurers are still subject to state insurance laws and regulations, and there is wide diversity of opinion among them as to whether to support federal intervention. Contrary to the situation in the life and P/C industries, it is some of the smaller health insurers that have problems complying with differing state rules and would like to see a uniform federal system. Some larger insurers, with the resources to successfully comply with the rules in all states, perceive it as a competitive advantage to remain with a state-based regulatory system. Considering the diversity of opinion among health insurers and the possibility that they would not be subject to whatever form of federal intervention might be passed, it is not surprising that the major health insurance trades have not taken a strong position on the issue.

AHIP: America's Health Insurance Plans <http://www.ahip.net>. AHIP was formed by an October 2003 merger of the American Association of Health Plans (AAHP) and the Health Insurance Association of America (HIAA). It is the principal association of private health insurers, representing nearly 1,300 companies providing health, long-term care, dental, disability, and supplemental coverage to more than 200 million Americans.

BCBS: BlueCross BlueShield Association <http://www.bcbs.com>. BCBS is the trade association for some 43 independent, locally operated Blue Cross and Blue Shield Plans.

Banking/Financial Services Associations

Bankers are a principal driving force behind legislation for federal chartering of insurance companies. They are already accustomed to a dual regulatory system whereby they can choose to have either a state or federal charter, with its accompanying regulatory system. Since the passage of the Gramm-Leach-Bliley Act (GLBA),³ banks have indicated an interest in entering the insurance marketplace either through sales or underwriting affiliates.

ABIA: American Bankers Insurance Association <http://www.aba.com/ABIA>. The major banking/financial services group pushing for federal chartering legislation is the ABIA. It operates as an affiliate of the American Bankers Association (ABA) and represents bank insurance interests, with both banks and insurers as members. It was the first group to advocate a plan for federal optional chartering of insurance companies, and it has worked with the ACLI and the AIA to get broader insurance industry support. Its revised plan served as the basis for proposed legislation by Senator Schumer in the 107th Congress.

Other financial services groups that might be expected to support ABIA's legislative efforts on federal chartering include the Financial Services Roundtable <http://www.fsround.org>; the Financial Services Coordinating Council <http://www.fscnews.com>; and the Financial Services Forum <http://www.financialservicesforum.org>.

Producer (Agents/Brokers) Associations

Of the major producer organizations, one has supported federal chartering for some time while another has recently switched from opposition to "openness" to the idea. The other two are supportive of the SMART Act's approach.

CIAB: Council of Insurance Agents and Brokers <http://www.ciab.com>. CIAB is a Washington, DC, organization that represents major commercial insurance and employee benefits intermediaries in the United States and abroad. Its members place some 80% of all U.S. commercial insurance, over \$90 billion worth. The CIAB is closely associated with the AIA and the RAA and is a long-time and vocal supporter of federal chartering, although it recognizes that significant steps could be taken to improve the current system short of a federal charter.

IIAA: Independent Insurance Agents of America <http://www.iaa.org>. IIAA, sometimes referred to as "the Big I," is the nation's oldest and largest independent agent association, representing approximately 300,000 agents. IIAA is based in Alexandria, VA, maintains a Capitol Hill office, and is affiliated with a federation of 51 state agents associations. The IIAA opposes federal chartering and supports a reform of the state system backed by federal standards. It has been a major proponent of the SMART Act's approach.

NAIFA: National Association of Insurance and Financial Advisors <http://www.naifa.org>. NAIFA has a membership of more than 70,000 life/health insurance agents and financial advisors and is affiliated with a federation of 900 state and local associations. In the past, NAIFA has opposed optional federal chartering proposals. A new policy was formulated, however, in January 2004. While indicating that it is "firmly committed to supporting and improving state-based insurance

³ P.L. 106-102, 113 Stat. 1338 (1999).

regulation,” NAIFA is open to proposals for an optional federal charter as well as other steps, such as a national producer’s license.⁴

PIA: National Association of Professional Insurance Agents <http://www.pianet.com>. PIA represents more than 15,000 insurance agencies that sell and service all kinds of insurance, but concentrate on coverage of automobiles, homes, and businesses. It opposes federal chartering legislation while favoring modernization of the state system.

State Regulatory/Legislative Groups

As might be anticipated in any proposal to transfer state regulatory functions to the federal government, state-related groups oppose federal chartering, maintaining that the states are capable of instituting the necessary reforms to the current state insurance regulatory system. There is also a fear among these groups that a transfer of insurance regulatory authority could result in diminished state revenues.

NAIC: National Association of Insurance Commissioners <http://www.naic.org>. The major state-related group that is already actively opposing any efforts at federal chartering is the NAIC. Although in many ways it seems to be a governmental entity, the NAIC is a private association of insurance regulators from the 50 states, DC, and four U.S. territories. It is no actual power to enforce its model laws and regulations on the individual states. It is headquartered in Kansas City, MO, and maintains offices in Washington, DC. NAIC’s stated goal is to make state regulation more consistent and uniform, and it has responded to industry efforts to enact federal chartering legislation with various steps to modernize state insurance regulation in order to prevent the transfer of state insurance regulatory authority to a federal agency.⁵

NCOIL: National Conference of Insurance Legislators <http://www.ncoil.org>. NCOIL is an Albany, NY, organization of state legislators concerned specifically with state insurance legislation and regulation, and its stated purpose is to oppose any federal encroachment on state insurance regulatory authority.

NCSL: National Conference of State Legislatures <http://www.ncsl.org>. NCSL is a broader based organization of state legislators that is based in Denver, CO. It maintains an office in Washington, DC, and covers many other state/federal issues in addition to state insurance regulatory matters.

ALEC: American Legislative Exchange Council <http://www.alec.org>. ALEC is a Washington, DC-based organization of conservative state legislators that advocates limited government, free markets, federalism, and individual liberty. It prefers a modernization of insurance regulation that would largely deregulate the industry.

NGA: National Governors Association <http://www.nga.org>. NGA has resisted pressures for the federal government to play a larger role in the regulation of health insurance and can be expected to oppose federal chartering.

⁴ NAIFA website, *Insurance Regulatory Reform and Modernization*, available at http://www.naifa.org/advocacy/irr/documents/Ins_Reg_Ref_1pg_0308.pdf.

⁵ For additional information on the NAIC’s modernization efforts and positions, see http://www.naic.org/documents/govt_rel_issues_fed_regulator_testimony_iuppa_0607.pdf.

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