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**VIA E-MAIL AND FACSIMILE**

September 12, 2008

The Honorable Michael Michaud  
1724 Longworth House Office Building  
Washington, DC 20515-1902

*Re: H.R. 5840 – Insurance Information Act of 2008*

Dear Congressman Michaud:

We are writing to express our strong opposition to H.R. 5840 (“The Insurance Information Act of 2008”) and to encourage you to vote NO. H.R. 5840 (H.R. 5840: Text for Suspension of the Rules Prepared for Committee on Financial Services September 8, 2008) would adversely impact and erode consumer protections currently provided by state insurance regulation.

The new federal bureaucracy that would be established by H.R. 5840, the Office of Insurance Information (OII), and its mechanism for preemption of state laws, closely track a concept outlined in *The Department of the Treasury Blueprint for a Modernized Financial Regulatory Structure*. The *Blueprint* states:

Treasury recommends establishing an optional federal charter (“OFC”) for insurers.... Treasury recommends that Congress establish an Office of Insurance Oversight (“OIO”) within Treasury.... Once Congress passes significant insurance regulatory reform, the OIO could be incorporated into the OFC framework.” (*Blueprint* page 16)

Similarly, at the markup session, comments were made by some Members supporting the OII as a first step toward a federal charter. Whether the office is called “Oversight” or “Information” becomes less important given the new office’s broad authority over international agreements and preemption issues.

For over 150 years, states have been the primary regulators of insurance, protecting consumers, encouraging private market competition, and helping to ensure that affordable and accessible insurance products are available. These steps to federalize insurance regulation – in other words to deregulate – will have an adverse impact on consumers of insurance and the private market.



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In addition to our concerns about OII being the first step to federal deregulation of insurance, we believe that H.R. 5840 could significantly hamper state insurance regulators' ability to continue to protect its insurance consumers and private markets.

H.R. 5840 would establish a new federal bureaucracy (OII) and give one person the power to invalidate state insurance laws that are perceived as "inconsistent with" international agreements. These laws would not be limited to international affairs, but could include long-established state insurance laws regulating purely domestic markets, such as licensing laws or laws requiring the use of U.S. statutory accounting principles. Any "international agreement" with a foreign government or regulatory entity (perhaps even an informal memorandum of understanding with a private self-regulatory entity) could be used by this federal employee as the rationale for an action to preempt state-based standards. The same individual could make an agreement with a foreign entity and give that agreement the force of law, overturning the actions of state legislatures. All of this would be done without any of the protections provided by the U.S. Constitution when international treaties are negotiated and Congress preempts state law. Even a treaty that has been submitted for ratification and defeated could be considered an "agreement" with preemptive force.

Furthermore, H.R. 5840 would have an unintended adverse impact, encouraging U.S. based insurers to avoid strong state-based regulation by setting up offshore affiliates in a foreign country whose insurers are granted exemption from U.S. state insurance laws by OII. This could inadvertently encourage the entire market, both foreign and domestic, to join in a race to the bottom.

Thank you for your consideration. Mila Kofman may be reached at 207-624-8550. Bob Wake, Bureau of Insurance Counsel, may be reached at 207-624-8430. Andrew Black, Assistant Attorney General, may be reached at 207-626-8835.

Very truly yours,



MILA KOFMAN

Superintendent of Insurance

Sincerely,



G. STEVEN ROWE

Attorney General

Cc: Senator Olympia J. Snowe, Senator Susan M. Collins, Speaker Nancy Pelosi, Senator Harry Reid