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SUPERINTENDENT

VIA E-MAIL AND FACSIMILE

April 8, 2010

The Honorable Christopher J. Dodd
Chairman,
Committee on Banking, Housing, & Urban Affairs
United States Senate
448 Russell Senate Office Building
Washington, DC 20510

Re: Restoring American Financial Stability Act of 2010

Dear Senator Dodd:

We are writing to express our strong opposition to the Office of National Insurance (ONI), created by Title V, Subtitle A of the Restoring American Financial Stability Act of 2010 (Chairman's Mark, Senate Standing Committee on Banking, Housing, & Urban Affairs).

Subtitle A would establish a new federal bureaucracy (ONI) and give one person the power to invalidate state insurance laws that are perceived as "inconsistent with" international agreements. The laws that are in jeopardy 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 insurance agreement" with a foreign government or regulatory entity (even a non-governmental entity) could be used by this federal employee as the rationale for an action to preempt state-based standards. The same individual could be authorized by the Treasury Department to 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, Subtitle A 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 ONI. This could inadvertently encourage the entire market, both foreign and domestic, to join in a race to the bottom.



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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. This provision would adversely impact state regulation of insurance and erode important consumer protections provided by state insurance laws, undermining the Administration's efforts to work in partnership with the states and to avoid federal preemption of state consumer protections. This effort to deregulate will have an adverse impact on consumers of insurance and the private market.

Thank you for your consideration. We urge you to strike the preemption provisions and the authority given to Treasury to negotiate and enter into new international insurance agreements in Title V, Subtitle A.

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



JANET T. MILLS
Attorney General

Cc: Senator Susan M. Collins, Senator Olympia J. Snowe, Senator Reid