July 5, 2016

The Honorable Jacob J Lew
Secretary of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Secretary Lew,

We write today to express our concerns about potential outcomes of international discussions on insurance regulation and to emphasize two important principles that should guide U.S. involvement in such discussions. We hope that you will agree with the importance of these principles and reply to describe what steps U.S. participants in such discussions are taking to protect them.

The U.S. Treasury Department is involved in international discussions on insurance regulation in a wide variety of international forums, including international efforts to develop global insurance regulatory standards through initiatives at the Financial Stability Board (FSB) and the International Association of Insurance Supervisors (IAIS) and additional negotiations to produce covered agreements standardizing insurance regulation with one or more other countries. In addition, the U.S. government engages in negotiations in other forums, such as trade agreements, that sometimes directly bear on regulating the business of insurance.

We believe that U.S. participation in such discussions should adhere to two core principles:

1) The primary U.S. regulators of insurance – state insurance commissioners – should be included when the topic of insurance regulation is being discussed.

2) U.S. negotiators should promote and seek to preserve the U.S. system of insurance regulation.

The U.S. state-based system of insurance regulation, which at its core focuses singularly on policy holder protection, has served our country well for over 150 years. It has protected the interests of consumers while fostering a highly competitive market. The system has been ratified repeatedly by the Courts and by the Congress, and we did so again last year with the passage of the Policyholder Protection Act.

Our insurance regulatory system works well, but it is also unique, and it is this uniqueness that gives rise to our concern. It is unlike our regulation of banks or of securities and derivatives, where federal regulators take the lead. When insurance is the topic, we must give the states a more significant role in negotiations. It is unlike insurance regulation in European countries, differing in several major respects. When we seek to harmonize standards with them, there is a wide gap to be bridged, and it creates the risk that one or both sides will have to make significant changes.
We have entrusted states with the job of protecting insurance consumers and regulating insurance markets, and they have carried out those responsibilities with success for the last 150 years including through the depth of the financial crisis. The responsibility we have given them should be matched with commensurate power, including a seat at the table when the future of insurance regulation is being discussed. We recognize that there are logistical, legal, and organizational hurdles created by dealing with 56 separate jurisdictions, but we believe that the states have a long track record of working together in this space, and we trust that solutions will be found if the states and federal government are willing to work together to find them.

We appreciate the productive discussion to date in this area. Specific clarification of your views on these issues by July 8 would be beneficial toward alleviating significant bipartisan concern. We look forward to confirming what you are doing to advance these principles and what you believe could be done to further strengthen the force of these principles.

Sincerely,

Emanuel Cleaver
Member of Congress

Denny Heck
Member of Congress