Testimony of the American Property Casualty Insurance Association

Hearing on U.S. Trade and Investment with Sub- Saharan Africa: Recent Trends and New Developments (Investigation No. 332-571)

U.S. International Trade Commission

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The American Property Casualty Insurance Association (APCIA) appreciates the opportunity to contribute to the Investigation No. 332–571, *U.S. Trade and Investment with Sub- Saharan Africa: Recent Trends and New Developments*.

APCIA is the property casualty insurance industry's most effective and diverse trade association. We represent nearly 60 percent of the U.S. property casualty insurance market. APCIA's purpose is to advocate our members' public policy positions in all 50 states, on Capitol Hill, and internationally. APCIA member groups write all types of property casualty insurance and serve customers in over 170 countries and territories globally including many markets in Sub-Saharan Africa (SSA).

We are excited by the prospects of the Administration's "Prosper Africa" initiative. As Deputy Secretary of Commerce Karen Dun Kelly said at the rollout of Prosper Africa, "the U.S Government can and must do more to capitalize on competitive advantages of U.S. companies" to encourage more trade and investment with African countries. We agree entirely and note that the insurance industry is one in which the United States has a significant competitive advantage. The U.S. insurance industry has the experience, technology, and foresight to thrive in international markets, as we have done in many markets around the world. SSA is no exception, though legal and regulatory barriers in many countries in Africa have hobbled the ability of U.S. groups to grow and serve individuals and companies in Africa to our full potential.

<u>Insurance market developments in SSA and the development of InsurTech</u>

SSA represents a region of substantial potential for U.S. insurers and reinsurers. Broadly, it has young populations, expanding middle classes, and growing economies that increasingly will need insurance products. It is not lost on U.S. insurers and reinsurers that combined consumer and business spending in Africa is expected to reach $6.7 trillion by 2030. U.S. insurers want to do business in SSA, which will benefit both the United States and our trading partners.

The nations that make up SSA are not a monolith, which should be considered as the U.S. charts a new trade and investment course in SSA. There is a wide range of levels of development of insurance markets across SSA, including markets that are heavily insured and those that are significantly underinsured. Though some markets have a culture and history of utilizing insurance as reflected by their insurance penetration rates, as a whole the insurance sectors across Africa are largely underdeveloped. In recent years, insurance growth across Africa has not met its potential due to disruptions in the sector, often as a result of onerous regulations or an unpredictable regulatory environment. However, growth rates across Africa are still better than growth rates in many developed economies that are heavily insured already. The property and casualty insurance sector is expected to grow by a compound annual growth rate (CAGR) of 4.3% between 2017 and 2025, for example. Furthermore, the demographic changes I mentioned previously, urbanization, the potential for rapid economic growth, and technological advancements are presenting new opportunities.

In addition to offering consumers and businesses in SSA economic and social stability, insurers offer markets a significant source of investment. U.S. insurers and reinsurers are leading sources of investment in infrastructure around the world. The benefit to SSA nations from that investment is obvious, as current estimates put Africa's infrastructure funding gap at $130-170 billion.

Technological developments offer new means for reaching the underinsured in SSA, improving policyholder interaction with insurers, and for developing new insurance products that meet the needs of individuals and businesses.

The incredible growth in mobile phones in rural as well as urban populations has been highlighted as an opportunity for banks to reach new populations, but it is also having a remarkable effect on access to insurance as well. The ability to transact in real time with an insurer via mobile phones presents a cheaper, quicker and more cost-efficient means to access insurance. This is a significant opportunity for insurers to further develop alternative channels to that enable them to access underinsured populations.

Advances in data collection technology and data analytics, coupled with other technology-enabled developments, have also made it possible to reach underinsured populations and customize products to meet their needs. Innovative partnerships such as Blue Marble Microinsurance, a consortium of eight insurance companies, operates a social enterprise with the purpose of extending insurance protection to the emerging middle class. Blue Marble includes U.S. groups AIG, Transatlantic Reinsurance Company, and Marsh & McLennan. Blue Marble (the name of which refers to the globe) incubates and implements microinsurance ventures -- for example data hubs or mobile technology -- that can be extended around the world, making it financially viable to reach consumers in smaller or less-developed markets. Blue Marble's first project was in Zimbabwe, providing drought protection to smallholder maize farmers. That venture brought together data scientists and agronomists to design a proprietary index to make the microinsurance product viable. By using point-sensor technology to measure rainfall and plant health across seasons, Blue Marble's data-rich index provides higher-resolution parametric insurance coverage for Zimbabwe's maize farmers. That program has grown, this year expanding across southern and eastern Africa and expanding beyond maize farmers to several agricultural value chains including those of coffee, cocoa, cassava, sugar cane, grains, oil seed crops, beans, groundnuts, paprika, cotton and livestock pastures. Innovative, global partnerships like Blue Marble, which are based on emerging technology and a recognition of the important societal role of insurance, demonstrate the impact that global insurance groups can have in SSA.

<u>Trade and investment barriers faced by U.S. insurers and reinsurers in SSA</u>

Unfortunately, too often the underdevelopment of SSA markets can be the result of the laws and regulations that govern the business of insurance. Often those laws and regulations prohibit the participation of U.S. insurers and reinsurers in those markets, or erect barriers that are high enough to discourage them from attempting to enter. As a result, citizens and businesses of SSA nations lose the benefits that foreign participation in their markets would bring, and U.S. insurers and reinsurers lose valuable opportunities to trade and invest with growing markets.

Many, but not all, of those barriers come in the form of investment restrictions, barriers to cross-border reinsurance, the forced localization of data, and prohibitions on difference-in-conditions and difference-in-limits (DIC/DIL) insurance. DIC/DIL is a key type of coverage for multinational enterprises that provides expanded coverage for some perils not covered by standard insurance policies.

For illustrative purposes, I will highlight several of the most significant barriers U.S. insurers and reinsurers face in SSA:

- African Union: In AU shareholder member states, a 5% mandatory offer of each risk must be made to reinsurer Africa Re, a government-supported entity.
- Conférence Interafricaine des Marchés d'Assurances (CIMA, 14 Member States): Foreign reinsurers are excluded from writing accident, health, life and death, motor liability, land vehicles except for railway stock, goods in transit, capitalisation, tontines and unit-linked insurance and there are restrictions for cessions abroad above 50% for all other classes of business. To reinsure more than 50% of a risk with unlicensed overseas reinsurers, local regulatory approval must be secured. If it is not granted the remaining 50% must be reinsured locally or with a reinsurer established in another CIMA member state. Additionally, 15% of all treaties go to CICA-Re.
- Angola: Generally prohibits DIC/DIL coverage, though regulatory approval may be sought
- Benin: Generally prohibits DIC/DIL coverage
- Burkina Faso: Prohibits DIC/DIL coverage
- Cameroon: Generally prohibits DIC/DIL coverage
- Central African Republic: Prohibits DIC/DIL coverage
- Chad: Prohibits DIC/DIL coverage
- Comoros: Prohibits DIC/DIL coverage
- Congo, Rep.: Prohibits DIC/DIL coverage
- Cote d'Ivoire: Prohibits DIC/DIL coverage
- Equatorial Guinea: Prohibits DIC/DIL coverage
- Eritrea: Generally prohibits DIC/DIL coverage, though regulatory approval may be sought
- Ethiopia: Ethiopia prohibits foreign investment in insurance and reinsurance companies. Furthermore, Ethiopia maintains significant reinsurance restrictions. The Manner and

Criteria of Transacting Reinsurance Directive No SIB/44/2016 that came into force on 1 August 2016 imposes mandatory cession requirements for each reinsurance policy in Ethiopia. A minimum 25% of all treaty cessions and 5% of each reinsurance policy must be ceded to a local reinsurer. Additionally, the local reinsurer has the right of first refusal for all facultative placements.

- Gabon: Local insurers are required to cede 15% of non-life premium and 5% of all treaty and facultative reinsurance to the state-owned reinsurer Societe Commerciale Gabonaise de Reassurance (SCG-Re). Gabon also prohibits DIC/DIL coverage
- Ghana: Generally prohibits DIC/DIL coverage, though regulatory approval may be sought
- Guinea: Generally prohibits DIC/DIL coverage, though regulatory approval may be sought
- Guinea-Bissau: Generally prohibits DIC/DIL coverage
- Kenya: A minimum of one-third of the equity of an insurance company is required to be held by Kenyans or citizens of East African Community countries. Furthermore, local insurers are legally bound to offer state-owned Kenya Re 20% of all their outward reinsurance treaties, both life and non-life. Kenya generally prohibits DIC/DIL coverage, though regulatory approval may be sought
- Madagascar: Prohibits DIC/DIL coverage
- Mali: Prohibits DIC/DIL coverage
- Mauritania: Generally prohibits DIC/DIL coverage, though regulatory approval may be sought
- Mozambique: Generally prohibits DIC/DIL coverage, though regulatory approval may be sought
- Namibia: Generally prohibits DIC/DIL coverage, though regulatory approval may be sought
- Niger: Prohibits DIC/DIL coverage
- Nigeria: Nigeria limits foreign investment in insurance and reinsurance companies to 40% of shares. Nigeria also restricts reinsurance access, as guidelines state that no (re)insurance risk in the Nigerian oil and gas sector may be placed overseas without written approval of the regulator. Local capacity, which is the aggregate capacity (including treaty reinsurance) of all locally registered reinsurers must be fully exhausted. Furthermore, in addition to the 5% mandatory cession to Africa Re, 5% of treaty programs, excluding life and aviation, of member companies of the West African Insurance Companies Association must be placed with WAICA Re.
- Senegal: Local insurers face a compulsory cession of 6.5% of premiums plus 15% of treaties to the state-owned reinsurer, SEN-Re. Senegal also prohibits DIC/DIL coverage
- South Africa: Reinsurers may not actively seek business in South Africa, except through a local subsidiary or branch.
- Sudan: Local insurers are required to cede 50% of their treaty business to state-owned National Re. Local cedants must also offer all non-life facultative reinsurance to National Re, which has the option of accepting or declining on a case-by-case basis.
- Tanzania: Local insurers must give local reinsurers a mandatory preferential offer before seeking reinsurance in global markets. Tanzania also requires mandatory cessions to state-owned Tan Re (20%), including on the underlying policies, Africa Re (5%) and Zep Re (10%). For each overseas facultative risk approved by the supervisory authority

TIRA, the insurer must pay a levy of 3% of the applicable gross premium (subject to a minimum of USD $200). Additionally, a payment of 20% of any fronting fee or reinsurance commission in excess of 12% must be paid.
- Togo: Prohibits DIC/DIL coverage

Suggested priorities for potential trade negotiations with SSA markets

While the United States has not announced impending trade negotiations with any SSA countries, we are encouraged by expressions from the Administration that it would like to negotiate a free trade agreement with a government in SSA in the near future. APCIA would strongly support the negotiation of comprehensive, high-standard FTAs with SSA governments.

In addition to addressing the existing trade and investment barriers I referenced in several SSA markets, trade agreements with SSA nations could be used to set a new standard for international trade commitments, maximizing the benefits of global commerce for the United States and our trading partners. That is not only APCIA's goal, though. It is also the goal of U.S. Trade Representative Robert Lighthizer, who stated in January 2018 during a radio interview that "I think that before very long we're going to […] enter into a free trade agreement with [an African] country." He added, "And then that, if done properly, will become a model for these other countries." We applaud that vision and would absolutely support a high-standard, comprehensive, model free trade agreement with a market in SSA.

Services and insurance services are not adequately accounted for in most of the existing trade rules and packages the U.S. has with Africa. At a certain point in history, that model was understandable. But now it is time for a new model – one that recognizes the importance of insurance services for growing economies like those of SSA and one that recognizes the benefits to U.S. investors and businesses of expanding in those important markets. As a we look toward a new vision for U.S. trade with our partners in Africa, we should embrace our remarkable strength in the insurance sector and strike new relationships that will allow U.S. insurers to grow and consumers in Africa to prosper. That is our vision.

Specifically, APCIA would hope to see the following types of commitments included in any new FTAs, including those with countries in SSA:

- **Eliminate barriers to cross-border reinsurance.** As noted, many SSA countries restrict access to global reinsurance markets. These requirements add to the costs associated with reinsurance when the local reinsurer cedes the risk internationally through retrocessions, or concentrates risk within a country's territory when the local reinsurer keeps the risk. Cross-border reinsurance restrictions also reduce insurance capacity and discourage foreign insurers from entering local markets, reducing access to insurance for individuals and businesses.
- **Protect data flows for insurers.** Restrictions on data transfers and local server/storage requirements negatively affect insurers' ability to operate efficiently and effectively, and bar them from fully utilizing emerging technologies. Binding commitments to permit insurers to store data in the location that best suits their business model and to transfer data across borders would allow U.S. insurers to utilize impressive advancements in

InsurTech and data analytics, facilitating the introduction of customized microinsurance and other products that will respond to the needs of individuals and businesses in SSA.

- **Provide access to the full suite of investor-state dispute settlement (ISDS).** Due to prudential expectations, insurers are required to have a local presence and capital to offer most types of insurance. Given that, in most cases, insurers have no choice but to be located in local markets in order to operate, the insurance industry needs broad coverage for ISDS enforcement of investor protections.
- **Modernize commitments on cross-border insurance trade for multinational customers.** Insurance and reinsurance for large businesses, particularly those that operate internationally, are frequently best offered through cross-border channels in order to adequately address and align with their global risks. Trade agreement cross-border commitments should include commitments for difference-in-conditions and difference-in-limits (DIC/DIL) insurance, subject to reasonable prudential safeguards. DIC/DIL commitments would be particularly helpful in meeting the needs of multinational clients since by its definition it covers the risks that a client is unable to buy locally in a particular market. Furthermore, U.S. states currently permit cross-border DIC/DIL through surplus lines (or, non-admitted) insurance markets with reasonable prudential safeguards, so DIC/DIL commitments in future FTAs would guarantee reciprocal access for U.S. insurers serving multinational clients.
- **Eliminate foreign equity caps.** All trade agreement partners should commit to allowing U.S. insurers to own 100% of their subsidiaries.
- **Strengthen commitments on form of establishment.** The flexibility to establish a juridical form (i.e. branch, subsidiary, joint venture) that best suits the insurer's business model encourages international insurance trade. All trade partners should embrace that flexibility.
- **Limit anti-competitive advantages enjoyed by state-owned insurers.** When state-owned insurers and reinsurers compete with private insurers abroad it distorts the market due to preferential treatment from governments and regulators. Trade agreement commitments on state owned enterprises (SOEs) and sectoral commitments on post offices that underwrite insurance should limit those advantages. Regulatory impartiality, a prohibition on preferential financing, a prohibition on requirements that insurers engage in business with state-owned reinsurers, and requirements that SOEs act in accordance with commercial considerations are essential, among other SOE commitments.
- **Continue commitments on nationality of senior management and boards.** Unreasonable requirements on the nationality of senior company management and boards of directors restrict the ability of insurers to implement their corporate governance and controls in an effective manner. U.S. trade agreements with SSA countries should prevent a Party from requiring that more than a minority of the board of directors be composed of nationals of the Party or persons residing in the territory of the Party.
- **Strengthen regulatory transparency, dialogues and capacity building.** Commitments in trade agreements on regulatory transparency and domestic regulation should apply equally to insurers as they do to other sectors. Furthermore, trade agreements with SSA governments should create financial regulatory dialogues with an explicit mandate to reduce unnecessary market access barriers and to modernize the supervisory agencies in SSA through regulatory capacity building.

I hope that this testimony has demonstrated the potential in SSA not only for U.S. insurers, but also for the individuals and businesses in SSA who could benefit from the presence of our insurers. The potential is huge – but so are the challenges. U.S. engagement with governments in SSA can help U.S. insurers meet those challenges. We look forward to continuing to work with the Commission and other federal agencies to explore the next steps in SSA. Thank you for the opportunity to testify today.

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