Overview

On Tuesday, November 18, the Housing and Insurance Subcommittee held a hearing entitled “The Impact of International Regulatory Standards on the Competitiveness of U.S. Insurers, Part II.” The hearing was the second in a series of hearings examining international insurance regulatory developments and their potential impact on U.S. insurers’ competitiveness. [xxxA summary of the June 13 hearing is available HERE.] Witnesses focused on the various international regulatory standards being proposed by the G-20, the Financial Stability Board, the International Association of Insurance Supervisors (IAIS), and other international supervisory authorities as well as transparency issues relating to the work of the IAIS, the FSB, and the U.S. Financial Stability Oversight Council (FSOC). Subcommittee Republicans voiced strong skepticism over the process and substance of international insurance regulatory standards. Subcommittee Democrats had relatively light participation (most were attending the House Democratic Caucus leadership elections).

Details

The subcommittee heard testimony from one panel of four witnesses. All witness testimony is hyperlinked below & a copy of PCI's written Statement for the Record is attached to this Bulletin:

Witnesses

- **Mr. Michael McRaith**, Director, Federal Insurance Office, Department of the Treasury
- **Mr. Neil D. Breslin**, Senator, State of New York
- **Mr. Michael F. Consedine**, Commissioner, Pennsylvania Insurance Department
- **Mr. Thomas Sullivan**, Senior Advisor, Board of Governors of the Federal Reserve System

Committee Members in Attendance

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<th>Republicans</th>
<th>Democrats</th>
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<td>Chairman Randy Neugebauer (R-TX)</td>
<td>Carolyn McCarthy (D-NY)</td>
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<td>Scott Garrett (R-NJ)</td>
<td>Brad Sherman (D-CA)</td>
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<td>Sean Duffy (R-WI)</td>
<td>Joyce Beatty (D-OH)</td>
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<td>Robert Hurt (R-VA)</td>
<td>Al Green (D-TX)</td>
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<td>Steve Stivers (R-OH)</td>
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<td>Dennis Ross (R-FL)</td>
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<td>Bill Huizenga (R-MI)</td>
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Member Opening Statements
During his opening statement, Chairman Neugebauer (R-TX) noted the benefits of better international coordination but strongly opposed implementation of international insurance regulatory guidelines that are inconsistent with the U.S. system of state based insurance regulation. He recognized the number of stakeholders within the U.S. domestic insurance community who oppose the current trajectory of global capital standards and suggested that adoption of a global one-size-fits-all regulatory regime for global insurers, including burdensome group-wide capital assessments and prescriptive prudential standards was inconsistent with our domestic system of insurance regulation not in the best interest of U.S. consumers and insurers. Chairman Neugebauer explicitly rejected “top-down, prescriptive standards” for insurance regulation and repeatedly expressed concerns about insufficient transparency in the federal and international policymaking bodies. Every subsequent Republican opening statement (including Reps. Garrett (R-NJ), Duffy (R-WI), Hunt (R-VA), Stivers (R-OH), and Ross (R-FL)), similarly strongly opposed adoption of international insurance capital standards.

Witnesses Opening Statements

Director McRaith discussed how the Federal Insurance Office (FIO) is working with both domestic and international partners to develop a series of different global capital requirements for certain insurance companies. Director McRaith spoke at length about recently revised IAIS stakeholder engagement procedures arguing that the revised procedures did away with 20 years of “pay to play” IAIS measures and will ultimately increase overall IAIS transparency. Somewhat acknowledging subcommittee member concerns regarding IAIS transparency, Director McRaith made clear that the revised IAIS procedures remain open for revision and a renewed round of stakeholder comment. Director McRaith said he supports a requirement that would stipulate that stakeholders who submit comments to IAIS on proposed regulatory standards should receive a “substantive reply” similar to what U.S. administrative law requires an agency to produce in written regulations. In addition, he said outside parties should have the opportunity to meet directly with international supervisors, and that U.S. stakeholders should have the opportunity present to all U.S. participants at IAIS before or after IAIS meetings.

Mr. Sullivan discussed how the Federal Reserve Board (FRB) came to supervise certain insurance holding companies through the passage of the Dodd-Frank Act. He reiterated the efforts he and his colleagues have made to reach out to state insurance departments when exercising this authority. He then briefly discussed the FRB’s participation in the IAIS, of which it has been a part since 2013. Mr. Sullivan went on to describe the IAIS’ priorities, which include creating an international framework for insurance regulation. He also said that the IAIS is focusing on identifying systemically important insurers.

Commissioner Consedine described the NAIC’s work with FIO, the FRB and IAIS on international insurance regulatory issues. He said that structural differences in global insurance jurisdictions must be acknowledged and underscored the need for global capital standards to be compatible with the U.S. system, which represents a major portion of the global insurance market. Commissioner Consedine also emphasized the importance of transparency throughout the international policymaking process.

Mr. Breslin discussed the importance of broad public comment during the development of proposed international standards and underscored that any adopted standards must “do no harm” to the state system. Like Mr. Consedine, Mr. Breslin reiterated the importance of transparency. Mr. Breslin also discussed the important role state legislators play in implementing insurance regulatory changes, highlighting the need for state legislators to be provided a more “official role.”

Question and Answer

Chairman Neugebauer reiterated that many people and U.S. insurers are “worried about” the adoption of international insurance regulatory standards and suggested that arguments that people shouldn’t be concerned about international insurance regulatory agreements because they didn’t have legal authority were disingenuous. He asked Mr. Sullivan how European regulatory approaches would apply in the completely different U.S. state based system of insurance regulation. Mr. Sullivan made clear that any standards adopted at the international level would require a full U.S. rulemaking and comment process before any possible application in the U.S. Mr. Sullivan repeated that the FRB’s DFA authority specifically required supervision of entities on a consolidated basis. When questioned about the benefits to U.S. consumers, Mr. Sullivan stated that he believes in requiring group capital regulation, which leverages the playing field and benefits the market. He said that he hears the argument to not fix what isn’t broken but that markets are not static and regulation needs to evolve.

Rep. McCarthy focused on her bill, the Insurance Capital Standards Clarification Act of 2014 (H.R.4510), to prevent inappropriate bank capital standards from being imposed on insurers subject to FRB regulation. She underscored that the legislation was supported by 221 bipartisan members of the House. She asked Director McRaith if banking regulations could be effectively applied to insurance providers. Director McRaith insisted that insurance firms should not and would not be regulated as banks. He said that the FRB must tailor regulations to fit the specific industry. While Director McRaith did not specifically endorse H.R. 4510, Commissioner Consedine and Mr. Sullivan, both came out in support of the legislation with Mr. Sullivan going indicating that FRB Chair Yellen and Governor Tarullo support it as well.

Rep. Luetkemeyer focused his line of questioning on whether insurers should be categorized as SIFIs. He asked for specific criteria that would be used in determining whether insurance providers were systemically important. He reminded the witnesses that no insurance firm collapsed in 2008 and asked Mr. Sullivan what, if anything, would happen if a “systemically important insurance provider” collapsed. Mr. Sullivan said he could not answer the question with any degree of certainty. Rep. Luetkemeyer then became combative referring Mr. Sullivan to his own testimony. Rep. Luetkemeyer asked the witnesses about a recent study by Shapiro suggesting that international capital standards if adopted would impose significant costs on domestic consumers. Rep. Luetkemeyer asked Commissioner Consedine what effect international standards would have domestically. Commissioner Consedine said that international capital standards would initially be applied to large insurers and would trickle down to Main Street, increasing costs for consumers across the country and harming jobs growth. He also suggested that implemented international agreements rejected by the U.S. could put our markets at a disadvantage. Rep. Luetkemeyer concluded by asking Commissioner Consedine whether the federal agencies were listening to the states. Commissioner Consedine paused at length before replying "I think so", which Luetkemeyer noted was a very qualified response.
Rep. Duffy stressed his concerns about the lack of transparency in international policymaking discussions and indicating he would be introducing legislation creating a Federal Advisory Committee on Insurance to require formalized updates, particularly in response to federal agency problems with meeting statutory report deadlines. Rep. Duffy also asked Director McRaith about FSOC Insurance Expert Roy Woodall’s exclusion from recent IAIS meetings and the reduction in meeting access other than to specially picked guests. Director McRaith deflected the question, stating that people had the same access to meetings, but no longer had to pay fees. He also stated that Roy could attend meetings and that transparency was increased for all stakeholders by providing the same access to meetings while eliminating observer fees. He also indicated that the consultation process was actually expanded, particularly as of the previous day. Rep. Duffy then pressed Director McRaith on how FIO can be held accountable by Congress, stakeholders, and the American people. Rep. Duffy reiterated the importance of a comment period as part of the development of any international insurance regulatory standard. Rep. Duffy insisted that Director McRaith provide consistent updates to Congress. McRaith insisted that he would and reiterated his appreciation for the opportunity to work through the process with Congress. Rep. Duffy concluded by asking Director McRaith if American insurers are conceding to European wishes. Director McRaith assured him they are not.

Rep. Huizenga referenced the study on the cost of capital to U.S. consumers. He asked Commissioner Consedine if forcing insurers to maintain certain levels of capital would hurt consumers. Commissioner Consedine said there is little doubt that it would. Commissioner Consedine responded to a follow-up question by indicating that there was no need for federal regulation in this area. Rep. Hurt followed up by asking Director McRaith about the risks associated with Solvency II. Director McRaith said Solvency II would not impact American insurers domestically unless it was adopted as the international standard, which would not be the case. Rep. Hurt stressed that U.S. insurance standards should be used by the FRB for insurance companies under its jurisdiction.

Rep. Ross said that the current state insurance regulatory structure used in the U.S. is, not only working very well, but is the best in the world. Rep. Ross went on to say he does not understand why insurers need to be regulated the same way banks are regulated. In response to a question, Director McRaith said that the regulatory development process is still in its early stages and that no decisions have been made with regard to specific standards. Rep. Ross hammered against increasing insurance capital requirements. Director McRaith indicated that the Chicago Bulls basketball team players were each individually talented but only great in combination, drawing a parallel to the FIO/FRB/NAIC efforts to develop a Team USA capital approach. Rep. Ross suggested that we don't want to become the Chicago Cubs. Mr. Sullivan said that the FRB had not determined whether increased capital should be required. Commissioner Consedine suggested that teamwork was important but more important was to develop a strong U.S. alternative to the negotiating table at this key turning point.

Rep. Stivers asked Director McRaith how the IAIS will solicit input on any insurance regulatory standards from U.S. legislators. Director McRaith explained that an advisory committee works closely with stakeholders and state legislators. Rep. Stivers then discussed the Shapiro study on the harm of international capital requirements on consumers that had just been released.

Rep. Garrett pinned down Mr. Sullivan on contradictory statements whether the FRB has flexibility to impose the correct capital standards to insurance holding companies under their jurisdiction. He also wanted to know how the Fed can impose a SIFI designation on insurance providers while the Collins Amendment is still in place. Mr. Sullivan said that the FRB has only limited flexibility in applying appropriate capital standards to insurers and wanted more. He also reiterated his support of legislation (referenced earlier by Ms. McCarthy) to provide the FRB such flexibility. Rep. Garrett complained about the lack of transparency by the FRB and FSOC. Mr. Breslin said that federal agencies are not held to the same standards as states, particularly regarding transparency. Commissioner Consedine echoed similar sentiments. Rep. Garrett asked if there are different circumstances in the various states such that we still need state insurance regulators if the federal government is now regulating insurance and asked the state witnesses if they were willing to abdicate their authority. Commissioner Consedine noted that the states were still the regulators for insurance legal entities and the FRB only had a small segment of the market.

Rep. Huizenga solicited support for the Federal Protective Service Improvement and Accountability Act of 2013 (H.R.735). He also discussed the Roy Woodall incident and asked Director McRaith what is going to be done to insure something similar does not happen again. Mr. McRaith, reiterating his testimony, said that stakeholders will be able to attend meetings once a new admittance process is implemented.

Rep. Sherman stressed the success of the state insurance regulatory solvency system, including for the insurance subsidiaries of AIG. Rep. Sherman highlighted his sponsorship of the Policyholder Protection Act to protect insurance assets from being raided by federal bank regulators. Rep. Sherman asked Mr. Sullivan what the FRB is doing to insure policy holders are protected while new regulation is being discussed. Mr. Sullivan said that the Fed is working with the NAIC and states to make sure that firms are adhering to supervisory standards. Mr. Sullivan said that the FRB’s approach needs to be tailored and that they take insurance capital standards very seriously.

Related Information
- PCI Statement for the Record for the HFSC Housing and Insurance Subcommittee hearing 11-18-14.docx
- Report on Capital Standards for PC Insurers - Shapiro-Maathur-Sonecon.docx