

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS (NCOIL)

Resolution Regarding the Prudential Regulation of Insurance

*Adopted by the NCOIL Executive Committee on March 10, 2013, and by the State-Federal Relations Committee on March 8, 2013. **Sponsored by Senator Travis Holdman (IN)***

WHEREAS, the *Dodd-Frank Wall Street Reform and Consumer Protection Act* (*hereinafter*, 'Dodd-Frank Act') requires the Board of Governors of the Federal Reserve (*hereinafter*, 'Federal Reserve') to promulgate new regulations enhancing the supervision and prudential standards for insurers (*herein referring to insurers and insurance holding companies*) that may be Bank Holding Companies, Savings and Loan Holding Companies, or designated by the Financial Stability Oversight Council as systemically important nonbank financial institutions (*hereinafter*, 'insurers subject to federal oversight') (*see* 12 USC 5365 (a)(1)); and,

WHEREAS, the business of insurance is subject to prudential regulation by the several states; and,

WHEREAS, that prudential regulation includes regulating the investments and solvency of insurers; and,

WHEREAS, the state-based financial regulation of the insurance business performed remarkably well and as intended during the financial crisis of 2008-10; and,

WHEREAS, the insolvency or financial distress suffered by certain insurers during the crisis was not due to the failure of prudential insurance regulation; and,

WHEREAS, the Federal Reserve is required to take into account the state prudential regulation that an insurer is subject to when determining additional prudential standards for insurers subject to federal oversight (*see* 12 USC 5365 (b)(3)(A)(i) *and* 12 USC 5323 (a)(2)(H)); and,

WHEREAS, the extent to which Congress intended the Federal Reserve to defer to state insurance regulation when designing additional requirements for insurers subject to federal oversight is clear in the language of 12 USC 5361 (a)(2)(A) ("...the Board of Governors shall, to the fullest extent possible, use—(A) reports and supervisory information that a nonbank financial company or subsidiary thereof has been required to provide to other Federal or State regulatory agencies") and similarly in 12 USC 5361 (b)(2); and,

WHEREAS, the regulations proposed by the Federal Reserve DO NOT sufficiently differentiate between business already regulated as insurance and other activities of the insurer that subject it to federal oversight, but seek to impose banking requirements on a consolidated basis; and,

WHEREAS, imposing consolidated banking regulation on an insurer already subject to state insurance regulation is unnecessary and potentially conflicts with the requirements of state prudential regulation; and,

WHEREAS, the prudential regulation of financial institutions should be efficient and not duplicative, punitive or inappropriate; and,

WHEREAS, inefficient, duplicative, or inappropriate regulation unnecessarily raises costs to consumers:

THEREFORE, BE IT RESOLVED that the National Conference of Insurance Legislators (NCOIL) finds the regulations proposed by the Federal Reserve to be inconsistent with the express

language of the Dodd-Frank Act and Congressional intent to the extent those regulations do not rely on and instead will conflict with the prudential regulation of the insurance business already imposed by the states;

AND, BE IT ALSO RESOLVED that NCOIL calls on the Federal Reserve to revisit and revise its proposed regulations to tailor them in accordance with Congressional intent by:

1. Applying prudential requirements only to activities that are not subject to state insurance regulation as the Federal Reserve sees fit; and,
2. Analyzing the prudential requirements imposed by states on an insurer subject to federal oversight, and take those requirements into account when coming to conclusions on the soundness of the consolidated company; and,
3. Refraining from creating rules and requirements for insurers that impair, duplicate or conflict with the existing state insurance regulation and requirements.

AND, BE IT FURTHER RESOLVED that a copy of this Resolution be sent to the President of the United States, the Chairman of the Board of Governors of the Federal Reserve, the Secretary of the U.S. Treasury, the Director of the Federal Office of Insurance, the Chairman of the U.S. Senate Committee on Banking, Housing and Urban Affairs, and the Chairman of the Committee on Financial Services of the U.S. House of Representatives.