

December 7, 2009

The Honorable Barney Frank, Chair
U.S. House Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC, 20515

The Honorable Collin Peterson, Chair
U.S. House Committee on Agriculture
1301 Longworth House Office Building
Washington, DC, 20515

Dear Chairman Frank and Peterson:

As you consider amending H.R. 4173, the *Wall Street Reform and Consumer Protection Act of 2009*, we again write to reaffirm our position on the regulation of credit default swaps. The National Conference of Insurance Legislators (NCOIL) continues to believe that credit default swaps are insurance products and should be treated as such. We also assert—as evidenced in our recently adopted NCOIL *Credit Default Insurance Model Legislation*—that “naked swaps” significantly contributed to the ongoing financial crisis and should be banned. As President of NCOIL and as the Chair of its Financial Services & Investment Products Committee, we write on behalf of NCOIL to recommend that you look to our model act in your review of credit default swap regulation.

Our legislation—which was adopted unanimously by state legislators from across the country on November 22—would establish a state regulatory regime to oversee the CDI market. The legislation is modeled after New York State financial guaranty insurance law and contains requirements regarding company licensing; contingency, loss, and unearned premium reserves; policy forms and rates; and reinsurance, among other things. Its provisions define authorized CDI and prohibit and penalize parties that engage in unauthorized CDI. In doing so, the model would ban illegal or so-called “naked” CDS—a concept that your Committees considered earlier this year.

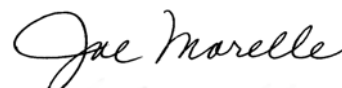
NCOIL spent over a year developing the CDI bill, which is the product of extensive debate between legislators, insurance and other regulators, academics, and other financial market interests, including a former Commodities Futures Trading Commission (CFTC) regulator. When we began our process, like you, we were told that the markets were self-regulating and that additional regulation was not appropriate. We, as you, saw that this was not the case and began the model law drafting process.

NCOIL believes that covered CDS, which perform as financial promises for future payment, should be regulated as the insurance products that they are and be subject to the safeguards that helped the insurance market weather the recent financial storm, as opposed to banking and securities markets. As state legislators, we feel that the legislation that we have developed is vital to safeguard our constituents from further harm and ensure a healthy and transparent marketplace.

Sincerely,



Representative Robert Damron (KY)
NCOIL President



Assemblyman Joseph Morelle
NCOIL Financial Services & Investment
Products Committee Chair

cc: House Committees on Financial Services and Agriculture
Senate Committees on Agriculture, Nutrition & Forestry and Banking, Housing, & Urban Affairs
NCOIL Legislators

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