Testimony
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The Federal Government's Role in the Insurance Industry

Subcommittee on Housing and Insurance
Committee on Financial Services
United States House of Representatives
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Thank you, Chairman Duffy, Ranking Member Cleaver and members of the Subcommittee for holding this important hearing on the Federal government's role in the insurance industry and for inviting me to testify today.

My name is Rick Means and I am the President and Chief Executive Officer of Shelter Insurance Company. Shelter is a mutual company headquartered in Columbia, Missouri. We provide auto, property, business and life insurance in twenty states and conduct business internationally. I am also a member of the Board of Governors of the Property Casualty Insurers Association of America (PCI), which is composed of nearly 1,000 members and represents a broad cross-section of insurers.

I am pleased to testify in strong support of bills that are the subject of this hearing: (1) H.R. 3861, the Federal Insurance Office Reform Act of 2017; and (2) H.R. 3762, the International Insurance Standards Act of 2017. These important bills recognize that our state-based system for insurance regulation has protected consumers and fostered competitive insurance markets for over 150 years. I am also pleased to offer some perspective on the need for Congress to ensure that both the Federal Reserve Board and the Consumer Financial Protection Bureau (CFPB) do not disrupt, duplicate, or displace state supervision of insurance.

Federal Insurance Reform Act of 2017 (H.R. 3861). The Dodd-Frank Act reaffirmed the primacy of state regulation. It also created the Federal Insurance Office (FIO), the primary value of which was to assist in the coordination of federal insurance policy and to represent the federal government in international regulatory discussions. Dodd-Frank expressly states that Treasury does not have general supervisory authority over the business of insurance – a clear signal that Congress did not intend for FIO to usurp state regulatory authority. However, some additional provisions pertaining to domestic regulatory matters were added to Dodd-Frank late in the legislative process without serious consideration of their negative impact on state regulation and state regulated markets. H.R. 3861 addresses these problems by re-focusing FIO's activity on international regulatory discussions in consultation with the states and by reducing its domestic activities that are duplicative of state regulation.

FIO's primary purpose was to provide a unified voice for the U.S. insurance market and regulatory community in international discussions. But FIO has used its other powers to impose burdensome data calls on auto insurers in an effort to influence rate setting – a function that properly belongs only with state regulators. FIO has also issued reports opining on a number of matters that state regulators handle exclusively, including underwriting standards.

Dodd-Frank also granted FIO exceedingly and unusually broad subpoena powers far beyond the power granted to most other Treasury agencies, especially in view of the fact that FIO was never intended to be a regulatory agency. Treasury's current subpoena powers generally fall into three categories: (1) formal administrative proceedings; (2) criminal or civil investigations and enforcement of laws/regulations; and (3) Inspector General investigative powers. FIO's subpoena power does not fit into any of the above categories and is not constrained in any way other than that the FIO must believe that the information it wants is relevant to its mission. No suspicion of criminal or civil violations of a law or regulation is required and no formal administrative proceeding must be initiated (indeed, as a non-regulator, FIO lacks the authority to initiative administrative proceedings). More importantly, the FIO does not need subpoena power, which duplicates the powers that state insurance regulators already possess to obtain information and data from insurers, either by subpoena or otherwise. States have the ability to take disciplinary action, including license revocation and civil and criminal penalties, against any insurer that fails to provide its regulator with required information. In recognition of this, H.R. 3861 would repeal FIO's subpoena power and its ability to conduct data calls directly on insurers, thus requiring FIO to work closely with state insurance regulators when it needs information.

To ensure that FIO is primarily focused on international matters and does not inappropriately intrude on state regulatory authority, H.R. 3861 would move FIO to the Office of International Affairs within the Treasury Department and focus its role on international matters. FIO would be empowered to speak for Treasury in international discussions on insurance matters. It would also limit FIO's staffing resources to ensure it does not engage in mission creep and inappropriately intrude into areas that are more properly within the authority of state insurance regulators.

The state insurance regulatory system has a 150 year track record of comprehensive consumer protection for insurance policyholders. The insurance sector has been stable throughout the last several financial crises, and despite a confluence in the last decade of record storms, market contractions, and regulatory changes, there have been no major recent insolvencies, the industry has achieved record levels of capitalization, and our residual markets for consumers and businesses are at or near historic lows. This suggests that overall private sector insurance availability is better than ever for consumers. H.R. 3861 would ensure that the state system will continue to extend this excellent track record unimpeded by Federal meddling. Instead, it would focus FIO on the important international functions to which it is most suited. Shelter urges the Committee and the Congress to pass this bill.

International insurance Standards Act of 2017 (H.R. 3762). International insurance regulatory discussions and standard setting has greatly increased since the financial crisis and is often conducted behind closed doors, unaccountable to the public and to Congress. The Treasury and Federal Reserve Board and the NAIC are responsible for representing the interests of the U.S. But instead of strengthening the U.S. voice as Congress intended in Dodd-Frank, the federal agencies have often disagreed with state regulators, thereby actually weakening the U.S. voice. Unfortunately, FIO has too often taken positions in international forums that are at odds with those of the state insurance regulators. For example, the International Association of Insurance Supervisors (IAIS) decided to hold closed meetings despite the strong objections of state insurance regulators, who believe that the IAIS should conduct its business transparently. State insurance regulators reported that FIO not only failed to represent that position at the IAIS, but the FIO director took the opposite position and supported closing the IAIS meetings, thus excluding consumer groups as well as market participants and U.S. insurance regulators from policy discussions.

The Federal government is the functional regulator of many depository institutions, and so can speak for the U.S. banking regulatory community in international discussions. However, it is not the functional regulator of the insurance industry, and thus can only speak for the insurance regulatory community if it first consults with state regulators and then advocates their views in international discussions.

The IAIS is not a regulatory body and in its standard-setting activities generally does not discuss confidential or company-specific information. Rather, it deliberates on best practices and potential global insurance standards in a forum where all stakeholders should be able to have a voice – similar to the process for domestic insurance standard discussions at the National Association of Insurance Commissioners (NAIC). I have attached to my testimony a chart showing a myriad of workstreams at the

IAIS that could have a significant impact on U.S. insurers and insurance regulators, including the development of various international prudential standards. While such international standards are not legally binding on U.S. regulators, they will inevitably exert a strong influence on U.S. insurance regulation over time. Many non-U.S. participants in these discussions are far more steeped in banking regulation than insurance regulation, posing a grave danger that standards that are inappropriate for insurers generally and for the U.S. market in particular could begin to take hold here. U.S. regulators and market participants must have a say in the development of those international standards. But the IAIS operates in a non-transparent manner and excludes all U.S. stakeholders other than the Federal government from participating in most meetings.

H.R. 3762 would correct this problem and assure that the U.S. can speak strongly and with one unified voice in international discussions. It includes a congressional finding that the state regulatory system has worked well, that protection of solvency is the paramount regulatory objective, and that Dodd-Frank reaffirmed the State-based regulatory system. It would also require federal agencies to consult closely with states (as well as the International Trade Advisory Committee on Services and Finance Industries) and prohibit federal agencies from agreeing to an international standard unless it is consistent with state and federal law and recognizes U.S. law as complying. The bill would also require federal agencies to closely consult with state regulators to determine if an international standard would require changes to federal or state laws.

H.R. 3762 would provide some much-needed direction and guardrails for U.S. negotiators in international discussions on insurance matters and will also provide for appropriate Congressional oversight of any international insurance agreements. At the same time, it would help assure strong representation of U.S. interest in international insurance regulatory discussions. For these reasons, Shelter urges the Committee and the Congress to pass H.R. 3762.

Consumer Financial Protection Bureau (CFPB) Insurance Exemption. Although not the primary subject of this hearing, we do also note that the Dodd-Frank Act created the Consumer Financial Protection Bureau (CFPB), but expressly provided that the CFPB would have no authority to regulate the "business of insurance." The term "business of insurance" is defined broadly in the statute to include "all acts necessary to the writing or reinsuring" of risks. . ." Despite this statutory exemption, the CFPB has taken actions that involve insurance activities and products that fall within the authority of state insurance regulators, creating duplicative and potentially conflicting oversight.

We know that Chairman Duffy and Representative Moore have introduced legislation (H.R. 3746) to clarify the existing exemption to ensure that all entities will be subject to state regulation with respect to any activities that constitute the "business of insurance," which is consistent with the intent of Congress when it passed the Dodd-Frank Act in 2010. This technical clarification will ensure that there will not be duplicative or conflicting regulations in the future and will provide certainty for insurance companies and consumers. We look forward to working with the bill's sponsors and the Committee on this important legislation.

Federal Reserve Board Supervision of Insurance. We also want to call the Subcommittee's attention to the need to examine the Federal Reserve Board's regulatory authority over insurers. The Dodd-Frank Act brought two categories of insurance companies under the Board's supervisory authority (1) insurance companies designated as systemically important by the Financial Stability Oversight Council (FSOC); and (2) insurance holding companies that are affiliated with depository institutions. Consistent with the McCarran-Ferguson Act, Congress did not intend for Federal supervision to disrupt or displace state supervision of insurance.

Unfortunately, the Dodd-Frank Act resulted in the Federal Reserve Board conducting exhaustive examinations of small financial institutions owned by nonbank financial institutions. One of those was our own, the Shelter Financial Bank. We opened that institution 17 years ago to serve as a community bank, primarily for our agents and policyholders. It was profitable and very stable, but the new Federal Reserve supervisory requirements added more than $1 million to our annual expenses. For this reason, we reluctantly decided in 2013 to close it. This expensive new federal supervision did nothing to protect consumers and instead worked to reduce competition and deprive consumers of banking options. We do not believe this is what Congress had in mind when it enacted Dodd-Frank.

In addition to the bills being discussed today, we also urge Congress to enact legation that appropriately adjusts federal regulation of insurance to address these issues. Such legislation should limit the Federal Reserve's day-to-day supervision of depository institution subsidiaries that meet federal capital requirements.

Conclusion

Thank you again for your efforts to recognize and support the success of state-based insurance regulation. We strongly support the passage of H.R. 3861, and H.R. 3762, and we look forward to working with the Committee and serving as a resource as this legislation progresses.

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URGENT ACTION NEEDED TO DEFEND THE U.S. STATE-BASED INSURANCE SYSTEM

Over 80% of international insurance standards meetings are closed to stakeholders and the public

JUNE

5–9 | 7-8 | 12–16 | 15-16 | 26 | 29-30

IAIS Capital, Solvency and Field Testing Working Group (CSFWG) meeting in Rome, Italy **(closed)**

IAIS Accounting and Auditing Working Group (AAWG) meeting in Toronto, Canada **(partially open)**

IAIS Global Seminar in Old Windsor, UK **(open)**

IAIS G-SII Analysts Working Group (G-AWG) meeting in Basel, Switzerland **(closed)**

IAIS Systemic Risk Assessment Task Force (SRATF) meeting in Old Windsor, UK **(closed)**

IAIS Governance Working Group (GWG) meeting in Washington, DC **(closed)**

13-14 | 22-23 | 24 | 26-28

IAIS Macroprudential Policy and Surveillance Working Group (MPSWG) meeting in Chicago, IL **(closed)**

IAIS Financial Inclusion Working Group Index-based group (FIWG Index-based group) meeting in Kampala, Uganda **(closed)**

IAIS Supervisory Material Review Task Force (SMRTF) meeting in Washington, DC **(closed)**

IAIS June 26-28 Parent Committee Meetings in Old Windsor, UK **(closed)**

JULY

17-18 | 17–21 | 24

Insurance Groups Working Group (IGWG) meeting in Bermuda **(closed)**

IAIS G-SII Analysts Working Group (G-AWG) meeting in Basel, Switzerland **(closed)**

IAIS Financial Stability and Technical Committee (FSTC) meeting in Basel, Switzerland **(closed)**

5-7 | 26-27 | 27

IAIS Systemic Risk Assessment Task Force (SRATF) meeting in New York, NY **(closed)**

Executive Committee (EC) meeting in Basel, Switzerland **(closed)**

IAIS G-SII Analysts Working Group (G-AWG) meeting in Basel, Switzerland **(closed)**

AUGUST

SEPTEMBER

6-7 | 13-14 | 12–15 | 11–15

IAIS Accounting and Auditing Working Group (AAWG) meeting in Washington, DC **(partially open)**

IAIS Financial Crime Task Force (FCTF) meeting in Montreal, Canada **(closed)**

IAIS Systemic Risk Assessment Task Force (SRATF) meeting in Rome, Italy **(closed)**

IAIS Insurance Groups Working Group (IGWG) meeting in London, UK **(closed)**

IAIS G-SII Analysts Working Group (G-AWG) meeting in Basel, Switzerland **(closed)**

IAIS Capital, Solvency and Field Testing Working Group (CSFWG) meeting in Ottawa, Canada **(closed)**

12-13 | 14-15 | 14 | 15 | 21-22 | 25-26 | 27-28

IAIS Resolution Working Group (ReWG) meeting in Basel, Switzerland **(closed)**

IAIS Macroprudential Policy and Surveillance Working Group (MPSWG) meeting in Basel, Switzerland **(closed)**

IAIS Stakeholder Conference Call on ICP 24 consultation draft **(open)**

IAIS Financial Stability and Technical Committee (FSTC) meeting in Basel, Switzerland **(closed)**

IAIS Market Conduct Working Group (MCWG) meeting in Tokyo, Japan **(partially open)**

IAIS Governance Working Group (GWG) meeting in Tokyo, Japan **(closed)**

IAIS Reinsurance Task Force (ReTF) meeting in Dubai, UAE **(closed)**

IAIS Executive Committee (ExCo) meeting in Basel, Switzerland **(closed)**

OCTOBER

2-3 | 16 — 18

IAIS Supervisory Material Review Task Force (SMRTF) meeting in Dubai, UAE **(closed)**

IAIS Capital, Solvency and Field Testing Working Group (CSFWG) meeting in Basel, Switzerland **(closed)**

11-12 | 30 — 1

IAIS Systemic Risk Assessment Task Force (SRATF) meeting in Frankfurt, Germany **(closed)**

IAIS Parent Committee Meetings in Kuala Lumpur, Malaysia **(closed)**

NOVEMBER

1 | 2-3 | 13-14 | 28 — 30

IAIS Stakeholders' meeting on International Capital Standard in Kuala Lumpur, Malaysia **(open)**

IAIS Annual Conference in Kuala Lumpur, Malaysia **(open)**

IAIS G-SII Analysts Working Group (G-AWG) meeting in Tokyo, Japan **(closed)**

IAIS Macroprudential Policy and Surveillance Working Group (MPSWG) meeting in Rome, Italy **(closed)**

2 | 10 | 16-17

IAIS Financial Inclusion Working Group (FIWG) meeting in Lima, Peru **(closed)**

IAIS Annual General Meeting in Kuala Lumpur, Malaysia **(closed)**

IAIS Systemic Risk Assessment Task Force (SRATF) meeting in Frankfurt, Germany **(closed)**

DECEMBER

4-5 | 12-13 | 11 — 15

IAIS Market Conduct Working Group (MCWG) meeting in Basel, Switzerland **(closed)**

IAIS Capital, Solvency and Field Testing Working Group (CSFWG) meeting in Paris, France **(closed)**

IAIS Insurance Groups Working Group (IGWG) meeting in Basel, Switzerland **(closed)**

4 | 6-7 | 12 — 14

IAIS Financial Crime Task Force (FCTF) meeting in Singapore **(closed)**

IAIS Governance Working Group (GWG) meeting in Basel, Switzerland **(closed)**

IAIS Accounting and Auditing Working Group (AAWG) meeting in Paris, France **(closed)**

IAIS Stakeholders' meeting on International Capital Standard meeting in Basel, Switzerland **(partially open)**

SIGNIFICANT ISSUES TO BE CONSIDERED, JUNE 2017 - DECEMBER 2017:

- International Capital Standards applicable to Internationally Active Insurance Groups
- Accounting standards
- Designation of Global Systemically Important Insurers and designation methodology
- Resolution standards for failing companies
- Cybersecurity standards
- Corporate governance of insurance companies
- Market conduct regulation
- Group supervision standards

NOTES: Information included in this document is based on the best available public information at the time of publication.