American Council of Life Insurers (ACLI) Statement for the Record
House Financial Services Committee
Subcommittee on Insurance, Housing, and Community Opportunity
Hearing entitled "The Impact of the Dodd-Frank's Insurance Regulations on Consumers, Job Creators, and the Economy"

July 24, 2012

The American Council of Life Insurers (ACLI) is pleased to submit this statement for the hearing record expressing the concerns of the life insurance industry about implementation of certain provisions of the Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act).

The American Council of Life Insurers is a Washington, D.C.-based trade association with more than 300 legal reserve life insurer and fraternal benefit society member companies operating in the United States. ACLI advocates in federal, state and international forums. Its members represent more than 90 percent of the assets and premiums of the U. S. life insurance and annuity industry. In addition to life insurance, annuities and other workplace and individual retirement plans, ACLI members offer long-term care and disability income insurance, and reinsurance. Its public website can be accessed at www.acli.com.

Federal Reserve Board Supervision & the Collins Amendment

Through authorities provided in the Dodd-Frank Act, the Federal Reserve Board (FRB) regulates at the holding company level a number of companies that are primarily life insurers. The Dodd-Frank Act granted the Federal Reserve Board (FRB) new supervisory authority over savings and loan holding companies (SLHC's), many of which are, or own, life insurers. The FRB recently exercised these new authorities, issuing three proposed rules on June 7 which collectively implement Basel 3 capital standards and Section 171 of the Dodd-Frank Act (the Collins Amendment). The ACLI is very troubled by the June 7 rulemaking, which applies bank-centric standards and methodologies to insurance companies.

Life insurance companies, including those organized as savings and loan holding companies, are vastly different than banks. ACLI believes that any capital standards established under section 171 must recognize the fundamental differences between life insurance companies and banking organizations. Capital standards appropriate for banks are not appropriate for life insurers. Insurer risk-based capital (RBC) requirements are the appropriate prudential standards to apply to an insurance company.

Unlike banks, life insurers assume extensively underwritten long-term risks and acquire an asset mix intended to reflect the characteristics of those risks. In other words, the nature of the liabilities drives the nature of the assets purchased in support of those liabilities. A large portion of life insurer liabilities do not have an immediate call capability by the contract holder (or have protection features built into the contract), making it very unlikely that an insurer would experience a “run on the bank” liquidity scenario in times of stress.

State insurance regulators have long recognized the difference in business models between banks and insurers. Life insurers’ investment portfolios are extensively regulated and are governed by state insurance law to ensure that investments are proper for the business of life insurance. Life insurer risk-based capital (RBC) charges are designed to measure asset default risk over extended periods of time for the types of investments that insurers own. These laws and regulations have been specifically designed for life insurers to ensure that the liabilities that have been assumed by the insurer will be covered by adequate assets when they come due.

Designation of Nonbank Financial Companies as Systemically Important

The Dodd-Frank Act also authorized the FRB to supervise nonbank financial companies designated as systemically important by the Financial Stability Oversight Council (FSOC). The FRB is authorized to establish enhanced prudential standards for these companies, some of which could be insurance companies.

The ACLI believes that the traditional activities of life insurance companies do not present a systemic risk to the financial stability of the United States. As noted above, life insurers do not depend on short-term, on-demand funding and are less susceptible to runs on their liabilities in times of distress. Furthermore, life insurance activities do not give rise to high interconnectedness with other financial institutions. Finally, the insurance regulatory system provides an established process for the orderly rehabilitation or wind-down of impaired life insurers that prevents “fire sale” liquidations.

In the event that the FSOC designates one or more life insurance companies as systemically important, ACLI believes, as stated above, that bank-centric capital and prudential standards are unworkable for insurers. Section 165 of the Dodd-Frank Act specifically requires the FRB to adapt prudential standards to the predominant line of business of a nonbank financial company. ACLI is very disappointed that the FRB proposed rule establishing enhanced prudential standards did not provide the industry specific tailoring required by the statute. ACLI encourages Congress to continue to exercise its oversight authority over the prudential regulators to ensure that the tailoring stipulated by Congress is implemented.

The Business of Insurance Exclusion to the Volcker Rule Should be Preserved in Full

Congress recognized the unique nature of insurance companies in the Dodd-Frank Act by establishing the “business of insurance” exclusion to the Volcker Rule. Unlike nearly all other financial institutions, insurers are predominantly focused on the long term. Insurers must manage the policy premiums and investments entrusted to them by their customers to meet obligations to those customers over multiple decades. The fundamental business model of an insurance company does not involve engaging in high risk or short term profit seeking.

Insurance company investment activities are subject to rigorous oversight and examination by state insurance regulators. State insurance regulators establish conservative limits on the percentage of assets that an insurer may invest in equities and generally require further limitations on investments in non-exchange traded equity investments. State regulators have comprehensive regulatory and reporting regimes for examining an insurer's investment activities and guarding against excessive risk in their investment portfolios.

If prudential regulators circumscribe the insurance exclusion by disallowing investments in covered funds, it would limit insurers' ability to earn the investment returns that support the guarantees made to policyholders. ACLI believes that any final rulemaking must follow Congressional intent and preserve in full the business of insurance exclusion to the Volcker Rule.

FDIC Orderly Liquidation Authority Legislation

The ACLI supports legislation which would exclude insurance companies from the Federal Deposit Insurance Corporation's "orderly liquidation authority." As noted above, state guaranty associations already have in place effective rehabilitation and liquidation processes for insurance companies that are designed to protect policyholders and minimize impacts on creditors. Life insurance companies are required to belong to the state guaranty associations in the states where they do business and may be assessed by those associations to meet the needs of policyholders in the event of another company's insolvency.

Thank you for convening this important hearing and for your consideration of the views of ACLI and its member companies.