Will **optional federal charter** lead to more regulation?

Insurers would have to contend with 'overlapping' oversight, study determines

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An **optional federal charter** might mean more regulation of the insurance business, as some insurers have maintained.

That concern was raised in a study from Fitch Ratings Ltd. of New York, which evaluated how a change in the regulatory scheme could affect the credit ratings of insurance companies.

``Movement to an [**optional federal charter**] may cause insurers to be faced with overlapping and confusing state and federal regulatory requirements,'' according to the research, which was released May 13.

That is because insurance companies would have to comply with two separate systems of regulation, said Tana Higman, director of insurance in Fitch's Chicago office and the lead author of the report.

``There's a potential to create a whole new federal bureaucracy in [Washington] that's far removed from the states, and [that] could complicate issues for the insurance companies and the agents,'' she said.

Negative consequences?

In addition, the report argued that creating a federal regulator for the insurance industry, which historically has been regulated by the states, could lead to other negative consequences for the industry.

``More active federal participation in the regulatory process may also bring additional legislation that the industry ultimately views as less beneficial,'' the Fitch report said.

However, insurance companies have been pushing for the federal-charter option for several years, arguing that it is necessary to have the option of a single system of regulation, rather than regulation by the states.

Their cause was advanced last month with the introduction of bipartisan legislation that would create an Office of Insurance Information in the Department of the Treasury with the power to pre-empt state laws conflicting with international treaties (InvestmentNews, April 28). In addition, in March, the Treasury Department issued its ``Blueprint for a Modernized Financial Regulatory Structure,'' which called for enactment of an **optional federal charter.**

The National Association of Insurance and Financial Advisors is putting the issue to a vote of its 1,500 members at its annual meeting in San Diego in September.

The board of directors of the Falls Church, Va., group voted unanimously last week to support the Insurance Information Act. It was introduced in April by Rep. Paul Kanjorski, D-Penn., chairman of the House Financial Services Committee's capital markets subcommittee.

``You need to have some sort of federal voice in Washington that understands the insurance industry and can testify before Congress and can weigh in in an unbiased way like the comptroller of the currency or the [Securities and Exchange Commission],'' said Jill Edwards, director of federal relations for NAIFA.

But some insurance agents are wary of an **optional federal charter.**

Many life insurance agent-advisers agree that there is a danger that adding federal regulation could increase the regulatory burden.

``It's obvious that there's going to be overlapping regulation with the **optional federal charter,**'' said John Woleben, chartered life underwriter and chartered financial consultant with Friedman Associates in Virginia Beach, Va., which manages around $100 million. ``Where have you ever seen anything that the federal government got involved in and it's cost you less to do business?''

``The current models we have on compliance right now are fairly onerous by themselves. To add another layer could clearly be both expensive and more cumbersome for the companies and the agents,'' said John Davidson, president of Davidson Insurance and Financial Services Inc. of Thousand Oaks, Calif., which manages about $30 million.

A key concern for life insurance agents is that they retain the option to remain state-regulated.

``The companies have to come to a position where it is truly an option for their agents,'' Mr. Davidson said. ``The companies may decide they want agents to be only federally regulated. That would not go over well with some agents who want to work in only one or two states and who would wish to remain simply state-regulated,'' Mr. Davidson said. With a federal regulator, ``there's no local oversight,'' he said.

Under the current system, a regulatory action by a few states might not affect as many agents as an action by a federal regulator that has power over insurance regulation nationwide, Mr. Davidson said.

`A deplorable record'

``The federal government has a deplorable record of oversight of taking care of consumers,'' said Robert Hanten, president of Solidarity Financial Inc. of Wayzata, Minn., who declined to divulge assets under management.

``The states have done a far superior job in keeping insurance companies solvent and well-regulated,'' he said. ``There is no case whatsoever for federal efficiency or oversight.''

But Agents for Change, a Washington group representing mostly life insurance agents that supports an **optional federal charter,** argues that such a charter would lead to more-efficient regulation of the industry.

``There's going to be nothing overlapping about this,'' said Peter Ludgin, executive director of the organization. ``Whether it's insurers or producers, the legislation is very clear. They will have the opportunity to stay with the current state system or opt into a federal regulatory system,'' he said.

The American Council of Life Insurers in Washington supports a streamlined regulatory system, run by either the federal government or the states, ``which would be the choice of the individual agent or insurer,'' ACLI spokesman Whit Cornman wrote in an e-mail.

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