

House Hears Sides Of OFC Issue

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WASHINGTON —The most important factor in regulation of the property-casualty insurance industry is effective enforcement, not whether it is a state or a federal oversight system, a consumer advocate told Congress yesterday.

The comments came from J. Robert Hunter, insurance director for the Consumer Federation of America, during testimony before a subcommittee of the House Financial Services Committee on insurance regulatory issues.

Viewpoints of others who spoke before the Capital Markets Subcommittee ran the gamut from support of continued state regulation, advocated by representatives of the National Conference of Insurance Legislators (NCOIL) and the Cincinnati Insurance Companies, to calls for an optional federal charter from Zurich insurance and the Financial Services Roundtable.

In the middle were Mr. Hunter, a former federal and Texas state insurance regulator, and Frank Nutter, president of the Reinsurance Association of America. Both proposed either changes to the current state-based regulatory system or a federal regulatory system.

The purest advocate for federal regulation was Alessandro Iuppa, senior vice president and Washington lobbyist for Zurich.

Before taking his current job, Mr. Iuppa was Maine's state insurance commissioner and president of the National Association of Insurance Commissioners, a group that strongly supports continued state regulation.

In his comments about the current regulatory system, Mr. Hunter said, "America's insurance consumers, including small businesses, are vitally interested in high-quality insurance regulation.

"I am sad to say, however, that the quality of insurance regulation is weak and declining throughout the nation today," he added.

He said state regulatory oversight has declined. One of the reasons "is the insurance industry has used the possibility of an increased federal role to pressure NAIC and the states into gutting consumer protections over the last seven years."

He explained, "This strategy of 'whipsawing' state regulators to lower standards benefits all elements of the insurance industry, even those that do not support any federal regulatory approach.

"Even if Congress does nothing, the threat of federal intervention is enough to scare state regulators into acceding to insurer demands to weaken consumer protections."

Mr. Hunter said CFA would endorse a more uniform national or multistate approach "if certain rigorous conditions were met."

He said he would favor empowering the NAIC to implement a multistate approach "only if the NAIC's decision-making procedures are overhauled to make it a more transparent, accountable body with meaningful regulatory powers."

At the same time, he was highly critical of current federal legislation, including bills recently introduced in both the House and Senate, as well as the former regulatory "tools" approach as initiated by Rep. Mike Oxley, R-Ohio, former chairman of the panel, in the State Modernization and Regulatory Transformation Act (SMART).

He was also critical of the Nonadmitted Insurance and Reinsurance Act recently passed by the House and currently being considered by the Senate.

But he did say he would support S. 618, which calls for amending the McCarran-Ferguson Act, which provides a limited antitrust exemption for insurers, and providing the Federal Trade Commission with the authority to oversee anticompetitive insurer behavior.

He said CFA also supports S. 1061, the Homeowner's Insurance Noncoverage Disclosure Act introduced by Sen. Trent Lott, R-Miss., in response to his difficulty in getting the insurance industry to promptly pay his claim after Hurricane Katrina leveled one of his Mississippi homes.

Mr. Nutter of the Reinsurance Association suggested that one approach he would support is a single state "passport" system which would allow a reinsurer to be licensed in and regulated by one state but with the ability to then "passport" and assume business in all other state.

Another alternative Mr. Nutter advocated was an OFC, which would allow a reinsurer to remain in the 50-state system or obtain a federal charter and be regulated at the federal level.

A third option, Mr. Nutter said, is a modified OFC which allows a reinsurer to choose between a single federal regulator, a single state regulator, or remain in the current 50-state system. "The RAA has a strong preference for a modified OFC," he said.

Texas State Rep. A. Craig Eiland, D-Galveston, who is chairman of NCOIL's State-Federal Relations Committee, said states are making important regulatory progress "that has been trivialized by proponents of OFC and other proposed federal measures that would preempt state authority."

Scott Gilliam, assistant vice president and government relations officer of the Cincinnati Insurance Companies, said the Cincinnati Companies "are...unmoved by the proposal for an OFC given the uniquely local nature of the business of insurance and our concern that an OFC would unlevel the playing field by giving a distinct competitive advantage to larger-sized insurers over small and medium-sized insurers like ourselves."

Instead, he suggested that consideration be given to a modernized state system of insurance regulation that would reserve certain areas of insurance regulation to a single-state regulator.

Mr. Iuppa in his testimony said the state regulatory system "is not best suited to oversee the complex, sophisticated international marketplace that insurance has developed into over the past half century."

Mr. Iuppa said Zurich and the Financial Services Roundtable have problems with state regulation hindering the U.S. globally," that it is unable to address national problems, and that the "lack of a sustainable market for terrorism coverage and coverage shortfalls in some regions illustrates a deficiency in the U.S. marketplace."