

Optional Federal Charter Debate Likely to Continue Into the Next Congressional Session

June 20, 2008

SOURCE: InsuranceNewsNet, Inc.

Some are hopeful that Congress will decide on some reform measures affecting the insurance industry by the end of the year, but unfortunately the optional federal charter (OFC) is unlikely to be one of the resolved issues. According to observers, even the OFC's strongest allies say the remaining months of the season do not give enough time to iron out the kinks and complexities of the OFC.

In fact, if the hearing on the matter conducted in April before a House subcommittee is any indication, the proposed legislation is set to go through a prolonged debate from within the industry itself.

The OFC, which will enforce a single central regulator to replace current state-run systems, has been a long-time divisive issue between members of the Optional Federal Charter Coalition and the Coalition Opposed to a Federal Insurance Regulator.

Some of the supporters of the OFC include the American Insurance Association, the American Council of Life Insurers, the American Bankers Insurance Association, the National Association of Independent Life Brokerage Agencies, the Reinsurance Association of America and the Financial Services Forum.

Meanwhile, those who are against it include the Independent Insurance Agents, Brokers of America, the National Association of Mutual Insurance Companies, Jackson National Life Insurance, the Association of Financial Guaranty Insurers, Alfa Insurance and Aflac.

The schism and the recommendations coming from the two factions are expected to make it even harder for lawmakers to agree on a direction which will effectively regulate financial companies and markets.

Treasury Department Secretary Henry Paulson, Jr. said there is a clear need to update the 135-year old state-run system as the primary regulator for insurance as the system becomes increasingly strained due to market changes.

"A state-based regulatory system is quite burdensome," Paulson said in his speech on the Treasury's blueprint for financial services modernization. "It allows price controls to create market distortions... hinder[s] development of national products and... directly impact[s] the competitiveness of US insurers."

Paulson declared the creation of an OFC for insurance firms as the most effective way to address the problems because it would be built on a solid model based on the current dual-chartering system for banking. That is, the OFC would give insurers the choice of being regulated at the national level or continuing to be regulated by the individual states.

Paulson has the support of the American Insurance Association (AIA). The organization believes a single regulator would cut costs industry-wide by billions of dollars annually. Ultimately all the savings could be passed on to consumers resulting in lower premiums without cutting back on reducing consumer protections said the AIA.

Testifying on behalf of the AIA and the American Council of Life Insurers (ACLI), insurance executive Alastair Shore said state-run regulation creates more expense for new products entering the market, and it is the consumer who bears the burden of this inadequate system through higher costs, fewer products and less consumer options.

The Property Casualty Insurers Association of America contends that the OFC would create a confusing – and more costly – mixture of federal and state regulation for both insurers and their customers.

Tom Minkler, who testified at the hearing for insurance brokers and agents, expressed that the current system, while far from perfect, is working well and does not need a major overhaul. He condoned state insurance regulators for their excellent work taking care of individuals and businesses' insurance and claim needs.

Michael McRaith, Illinois Director of Insurance for the National Association of Insurance Commissioners, also said a federal regulatory structure would hurt the insurance industry. McRaith maintained that insurance transaction is local and personal. The state-chartered system already promotes a competitive self-policing market that escapes the expense that enforced rate regulation is known for. In addition, McRaith warned that a federal charter would entail tremendous manpower, cost and time to be effective.

While the debate rages on, new developments inside Congress seem to favor the OFC. On June 10, Rep. Paul Kanjorski, D-Pa., chairman of the Capital Markets Subcommittee of the House Financial Services Committee, held a hearing on the Insurance Information Act that he introduced earlier this past spring.

The proposal contains plans to establish an Office of Insurance Information (OII) within the Treasury Department. The OII is designed to assist – by collecting insurance data – and advise the treasury secretary on insurance policies both international and domestic.

The war is not as good as won for OFC supporters. As Paulson himself said, "This will not be a small or easy effort -- transformative efforts rarely are. But this is a subject we must debate, and ultimately address, for our long-term economic growth and prosperity."