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Optional Federal Chartering for Insurers: Major Interest Groups

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Summary

Congress is considering two legislative proposals for the optional federal chartering, supervision, and regulation of insurers. In the Senate, "The National Insurance Chartering and Supervision Act"(NICSA) was introduced by Senator Charles Schumer on December 20, 2001. In the House, H.R. 3766, "The Insurance Industry Modernization and Consumer Protection Act" (IIMCPA) was introduced by Representative John LaFalce on February 14, 2002. Both bills are modeled on the dual state/federal regulation that now exists for the banking industry and would enable insurance companies to choose to be chartered and regulated by a newly established federal regulatory system, rather than by the states under the current regulatory system.

Insurance companies doing business in the United States have been regulated at the state level for the past 150 years, and the various insurance related interest groups have been largely state oriented. As a result, there is limited familiarity on the national level with these insurance industry-related interest groups or how they differ in their positions on federal chartering legislation. This report identifies some of the major insurance groups and state-related organizations with an interest in federal chartering and regulation of the insurance industry. This report will be updated as events warrant.

Insurance companies comprise a major segment of the U.S. financial services industry. However, unlike banks and other financial institutions that are regulated primarily at the federal level, insurance companies have been regulated by the states for the past 150 years. Currently there are two proposals before Congress that would alter the current regulatory system by allowing insurance companies to choose to be chartered and regulated by a newly established federal regulatory system.[1] There are approximately

[1] For more information on proposals before Congress and background on state insurance regulation, see CRS Report RS21153, *Optional Federal Chartering for Insurers: Legislation and* (continued...)

5,763 insurance companies based in the U.S., and these fall into two broad segments: life/annuity/health (2,368 companies), and property/casualty (3,395 companies).[2] Some companies are organized as stock companies, while others operate as mutual or fraternal companies. Some companies are very large in size, while others are mid-size or small. Some companies specialize in large commercial accounts, while others write personal lines of business such as homeowners, automobile, or individual life and health policies. Still others concentrate on reinsurance, or the selling of insurance to insurance companies to assist them in spreading their risks.

Perhaps contrary to general perception, the insurance industry is not a monolithic industry, but a very competitive one serving multiple markets. Many insurance companies and their producers/agents are members of various trade associations that represent their interests before state legislatures and insurance regulators. It is estimated that there are over 300 insurance-related trade associations and professional organizations operating in the U.S. and Canada.[3] Most of these organizations are state oriented, but some are now contacting Members of Congress to express their differing positions on the optional federal chartering proposals. These differences are due in large part to the diversity in segments and lines of business, company structure, size, and insurance markets in which insurers operate. The purpose of this report is to assist in understanding the complicated issues inherent in creating a federal system of insurance regulation by providing some insight into the major insurance associations and state-related organizations most interested in the issue.

Life Insurance Company Associations

Life insurance is probably the premiere segment of the industry favoring optional federal chartering, because its products are generally more national in scope. That is, life products are based on actuarial tables of life expectancy that vary little across state lines, and tend to be more standardized than non-life products. Major commercial banks seeking life insurance functions, or affiliates in the insurance industry, also tend to prefer national federal charters to match their own, and to ease their own entry into life insurance markets nationwide. Within the life industry, it is generally the larger insurers that seek federal chartering. Smaller insurers, serving more regional markets, tend to be neutral or opposed.

ACLI. American Council of Life Insurers [http://www.acli.com]. ACLI is the major trade association for life insurance and annuity companies. Its 399 members account for 76% of the life insurance premiums and 75% of annuity considerations in the U.S. Some ACLI members also write long-term care and disability income insurance products. After a 2-year effort to develop a proposal for optional federal chartering of life insurance companies, the Washington-based ACLI formally authorized its staff to seek introduction of its plan in November, 2001. ACLI members supporting a federal charter option

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[1] (...continued)
Viewpoints, by S. Roy Woodall, Jr.

[2] See AM Best listing [http://www3.ambest.com/ratings/RatingsSearch.asp], visited Mar. 3, 2002.

[3] See one such listing at [http://www.barryklein.com/ORGANIZATIONS.HTM], visited Mar. 1, 2002.

emphasize that life insurance is a product that is national in scope and should not be hampered by the current state regulatory system. Some of ACLI's smaller member companies which operate in only a few states have indicated that they prefer to support an improved and modernized state system.

LICONY. Life Insurance Council of New York [http://www.licony.org]. LICONY is the state trade association of 52 New York life insurance companies. Despite its state focus, several of its largest members are strong supporters of federal optional chartering.

NALC. National Alliance of Life Companies [http://www.nalc.net]. NALC is an association that represents smaller life insurance companies, most of which oppose federal chartering. It is based in Rosemont, IL, and does not maintain a permanent Washington presence.

Property and Casualty Associations

In the property and casualty (p&c) segment of the industry, support for federal chartering is more prevalent among the large old-line insurers writing commercial lines of coverages such as business property/liability insurance, medical malpractice and workers' compensation. Much of the rest of the industry is opposed to federal regulation on grounds that their personal line products such as auto and homeowners insurance are inherently local in nature, with differing state legal requirements and precedents that are best addressed and regulated at the state level.

AIA. American Insurance Association [http://www.aiadc.org]. AIA is the leading p&c association with more than 410 insurance company members which write more than $87 billion in premiums each year. Its members are generally large old-line commercial insurers. AIA is based in Washington, DC, maintains seven regional offices, and has local representatives in every state. AIA supports federal optional charter legislation and is the only p&c group to develop its own legislative proposal, which also incorporates the deregulation of premium rates and policy forms.

AAI. Alliance of American Insurers [http://www.allianceai.org]. AAI, generally referred to as "The Alliance," is headquartered in Illinois, maintains 10 regional offices, and represents a diverse membership of 325 p&c insurers, both large and small, with commercial and personal lines of business. AAI opposes any type of federal chartering system and maintains that p&c products are best regulated at the state level.

NAII. National Association of Independent Insurers [http://www.naii.org]. NAII, also based in Illinois, represents some 690 p&c insurers, maintains three regional offices, and maintains a network of lobbyists in every state. Its member companies account for 33.8% of total industry premium volume and 43.9% of the total personal lines volume. NAII opposes any type of federal chartering.

NAMIC. National Association of Mutual Insurance Companies [http://www.namic.org]. NAMIC is based in Indiana, maintains an office in Washington, DC, and represents some 1,300 insurers, most of which are small local or regional mutual

companies. NAMIC opposes any type of federal chartering, maintaining that to create one would undermine the efforts already underway to reform the state-based system.

RAA. Reinsurance Association of America [http://www.raanet.org]. Reinsurance is best thought of as "insurance for insurance companies," which allows primary insurers to spread their risks and increase their capacity to write new business. Reinsurance is recognized as a global business, and the RAA's mission is to advance the interests of the U.S. p&c reinsurance industry. The RAA is headquartered in Washington, DC, and generally supports a federal chartering system.

Health Insurance Associations

Much of the health insurance segment of the insurance industry, especially that portion writing employee benefit plans, is already directly or indirectly regulated at the federal level. However, health insurers are still subject to state insurance laws and regulations and there is wide diversity of opinion among them as to whether to support federal chartering. Contrary to the situation in the life and p&c industries, it is some of the smaller health insurers that have problems complying with differing state rules and would like to see a uniform federal system. Some larger insurers, with the resources to successfully comply with the rules in all states, perceive it as a competitive advantage to remain with a state based regulatory system. IIMCPA (H.R. 3766), would not provide for federally chartered insurers to write health insurance – except for long-term care and disability income – for 3 years, after which a report would be made to Congress as to whether such insurers should be so authorized. Considering the diversity of opinion among health insurers and the possibility that they would not be subject to federal chartering initially, it is not surprising that the major health insurance trades have not taken a position on federal chartering.

AAHP. American Association of Health Plans [http://www.ashp.org]. AAHP is the principal association of health plans, representing more than 1,000 plans such as health maintenance organizations (HMOs) and preferred provider organizations (PPOs) that provide coverage for approximately 150 million Americans.

BCBS. BlueCross BlueShield Association [http://www.bcbs.com]. BCBS is the trade association for some 43 independent, locally operated Blue Cross and Blue Shield Plans.

HIAA. Health Insurance Association of America [http://www.hiaa.org]. HIAA is headquartered in Washington, DC, and represents some 300 insurers that write health, long-term care, dental, disability income, and supplemental health coverage.

Banking/Financial Services Associations

Bankers are perhaps the principal driving force behind legislation for federal chartering of insurance companies. They are already accustomed to a dual regulatory system whereby they can choose to have either a state or federal charter, with its accompanying regulatory system. Since the passage of the Gramm-Leach-Bliley Act

(GLBA)[4] banks have indicated an interest in entering the insurance marketplace either through sales or underwriting affiliates. The major banking/financial services group pushing for federal chartering legislation is the **ABIA:** American Bankers Insurance Association [http://www.aba.com/ABIA/default.htm]. ABIA was formed in 2001 by the merger of the Association of Banks-in-Insurance (ABI) and the ABA Insurance Association (ABAIA). It operates as an affiliate of the American Bankers Association (ABA) and represents bank insurance interests, with both banks and insurers as members. It was the first group to advocate a plan for federal optional chartering of insurance companies, and has worked with the ACLI and the AIA to get broader insurance industry support. Its revised plan served as the basis for NICSA.[5] Other financial services groups that might be expected to support ABIA's legislative efforts on federal chartering include the following:

FIIA: Financial Institutions Insurance Association [http://www.fiia.org];
FSR: The Financial Services Roundtable [http://www.fsround.org];
FSCC: Financial Services Coordinating Council [http://www.fsccnews.com]; and
FSF: Financial Services Forum (no web site).

Producer (Agents/Brokers) Associations

Of the four major producer organizations, only one supports federal chartering. The others are working to develop a "middle-ground" alternative to federal chartering that would call for the enactment of "federal tools," such as mandated national standards, that would then be administered by the states rather than by a federal regulatory agency. Such an approach would preserve state regulation, but would also provide the impetus to modernize and reform state regulation to attain the desired degree of uniformity.

CIAB. Council of Insurance Agents and Brokers [http://www.ciab.com]. CIAB is a Washington, DC, organization that represents major commercial insurance and employee benefits intermediaries in the U.S. and abroad. Its members place some 80% of all U.S. commercial insurance. The CIAB is closely associated with the AIA and the RAA and is the only producer group that supports federal chartering.

IIAA. Independent Insurance Agents of America [http://www.iiaa.org]. IIAA, sometimes referred to as "the Big I," is the nation's oldest and largest independent agent association, representing approximately 300,000 agents. IIAA is based in Alexandria, VA, maintains a Capitol Hill office, and is affiliated with a federation of 51 state agents associations. The IIAA opposes federal chartering, and recently announced that it would develop a middle-ground alternative.

NAIFA. National Association of Insurance and Financial Advisors [http://www.naifa.org]. NAIFA has a membership of 80,000 life/health insurance agents and financial advisors, and is affiliated with a federation of 900 state and local associations. It is opposed to any federal chartering plan, and is seeking to reach consensus with other agent groups on an acceptable middle-ground alternative.

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[4] P.L. 106-102, 113 Stat. 1338 (1999).

[5] For additional information on NICSA, see CRS Report RS21153.

PIA. National Association of Professional Insurance Agents [http://www.pianet.com]. PIA represents over 15,000 insurance agencies which sell and service all kinds of insurance, but specialize in coverage of automobiles, homes, and businesses. It is affiliated with 50 state agent organizations, opposes federal chartering legislation, and has joined in the effort to develop a middle-ground alternative.

State Regulatory/Legislative Groups

As might be anticipated in any proposal to transfer state regulatory functions to the federal government, state-related groups oppose federal chartering, maintaining that the states are capable of instituting the necessary reforms to the current state insurance regulatory system. There is also a fear among these groups that a transfer of insurance regulatory authority could result in diminished state revenues. The major state-related group that is already actively opposing any efforts at federal chartering is the **NAIC:** National Association of Insurance Commissioners [http://www.naic.org]. NAIC is the trade association of insurance regulators from the 50 states, DC, and four U.S. territories. It is headquartered in Kansas City, MO, and maintains offices in Washington, DC, and New York City. NAIC's stated goal is to make state regulation more consistent and uniform, and it has responded to industry efforts to enact federal chartering legislation by launching six initiatives to modernize state insurance regulation in order to prevent the transfer of state insurance regulatory authority to a federal agency.[6]

Other state-related groups expected to oppose federal chartering or any other proposal that would encroach upon state insurance regulatory authority include the following:

NCOIL: National Conference of Insurance Legislators [http://www.ncoil.org]. NCOIL is an Albany, NY, organization of state legislators concerned specifically with state insurance legislation and regulation, and its stated purpose is to oppose federal any encroachment of state insurance regulatory authority.

NCSL: National Conference of State Legislatures [http://www.ncsl.org]. NCSL is a broader based organization of state legislators that is based in Denver, CO. It maintains an office in Washington, DC, and covers many other state/federal issues in addition to state insurance regulatory matters.

ALEC: American Legislative Exchange Council [http://www.alec.org]. ALEC is a Washington, DC based organization of conservative state legislators which advocates limited government, free markets, federalism, and individual liberty.

NGA: National Governors Association [http://www.nga.org]. NGA has resisted pressures for the federal government to play a larger role in the regulation of health insurance and can be expected to unite with its allies the Council of State Governments, the National Association of Counties, the National League of Cities, the U.S. Conference of Mayors, and the International City/County Management Association, in opposing federal chartering.

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[6] For additional information on these initiatives see U.S. General Accounting Office, *Regulatory Initiatives of the National Association of Insurance Commissioners*, GAO Correspondence 01-885R, July 6, 2001.