PCI

Property Casualty Insurers
Association of America

Advocacy. Leadership. Results.

April 14, 2017

Dear Chairman Crapo and Ranking Member Brown:

The Property Casualty Insurers Association of America (PCI) appreciates your request for legislative proposals to spur economic growth. In response, PCI is pleased to submit suggestions on ways to achieve growth and positively impact consumers, market participants and financial companies.

PCI is composed of 1,000 insurers and reinsurers that provide coverage in the U.S. and around the world. PCI members write $202 billion in annual premium, 35 percent of the nation's property-casualty insurance, including 42 percent of the U.S. automobile insurance market, 27 percent of the homeowners market, 33 percent of the commercial property and liability market and 34 percent of the private workers compensation market.

In summary, PCI recommends that the Committee consider legislation that would:

1) Re-focus the Federal Insurance Office (FIO) on promoting the U.S. system internationally while avoiding duplication of and interference with state insurance regulation;

2) Clarify the exclusion of state-regulated insurance from the Consumer Financial Protection Bureau's (CFPB) regulatory authority;

3) Improve the Federal Reserve Board's supervision of insurance companies by making its supervision more proportional and targeted to activities not already overseen by the state insurance regulators;

4) Eliminate the Financial Stability Oversight Council's (FSOC) designation of state-regulated insurance companies as Systemically Important Financial Institutions (SIFIs);

5) Prevent unproductive domestic and international capital standards;

6) Fully implement the National Association of Registered Agents and Brokers II (NARAB II);

7) Reform the Office of Financial Research (OFR);

8) Reauthorize and reform the Terrorism Risk Insurance Program (TRIP) and National Flood Insurance Program (NFIP);

9) Assure strong U.S. representation in international insurance regulatory discussions and break down barriers to international market access for U.S. companies;

10) Ensure fair treatment of property-casualty insurance in federal tax reform;

11) Improve the regulatory process by enhancing cost-benefit analysis and limiting *Chevron* deference;

12) Support public health, safety and weather prediction programs that help individuals and communities prevent losses; and

13) Enable greater investments in infrastructure.

PCI's submission provides a balanced and comprehensive list of proposals. These recommendations will assure strong consumer protection, reduce unproductive regulatory costs, and assist the economy to grow. PCI appreciates this opportunity and looks forward to working with you on these proposals.

Sincerely,

Nathaniel F. Wienecke
Senior Vice President
Federal Government Relations

Robert Gordon
Senior Vice President
Policy Development and Research

enclosure

Property Casualty Insurers
Association of America

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As Revised April 24, 2017

SUMMARY OF ECONOMIC GROWTH PROPOSALS
SUBMITTED BY
PROPERTY CASUALTY INSURERS ASSOCIATION OF AMERICA
TO THE
SENATE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

The Property Casualty Insurers Association of America (PCI) represents 1,000 insurers and reinsurers of all sizes that write more than $200 billion in coverage throughout the U.S. and world. PCI is pleased to provide the following summary of proposals and looks forward to working with the Senate Committee on Banking, Housing, and Urban Affairs to enact reforms that will help spur economic growth for the benefit of consumers and market participants.

FINANCIAL REFORM PROPOSALS TO REDUCE UNPRODUCTIVE FEDERAL INTRUSION INTO EFFECTIVE STATE-BASED INSURANCE REGULATION

A. Redefine and Limit the Role of Federal Insurance Office

Description**:** The primary reason Congress created the Federal Insurance Office (FIO) was to work with the states to provide a stable and consistent voice for the U.S. to support our regulatory system in international insurance discussions. That is still an appropriate role for FIO (or a successor entity). But, not included in the original FIO legislation, additional mandates were subsequently layered on that can conflict with or duplicate core activities of state insurance regulators. For example, state insurance departments have conducted numerous studies on auto insurance rates and every state has extensive laws and regulations governing auto insurance underwriting. The auto insurance marketplace is one of the most competitive commercial sectors with almost no availability problems. Even though the states are continuing to vigorously monitor the marketplace and issue periodic data calls, FIO duplicated state efforts, imposed its own studies, and triggered a series of data calls in addition to what states already were requesting. FIO's methodology was deeply flawed and duplicated core state regulatory functions. FIO has also initiated similar dueling data calls with the states on terrorism insurance, despite specific statutory direction to coordinate data collection through the state regulators. FIO is not a regulator but has increasingly second guessed state regulatory activities. FIO also has statutory subpoena powers, which are unprecedented for an agency that has no regulatory or enforcement authority. This authority to compel responses to data calls implies regulatory authority that is not in FIO's mandate and is the purview of state regulators and other law enforcement entities. State insurance commissioners rely on 11,300 staff to protect insurance consumers and regulate insurance market activities.

The FIO can continue to exercise a productive role in international discussions. Accordingly, FIO staff can be reduced to reflect the reduction in its domestic activities.

Impact on economic growth: Within the insurance sector, unnecessary regulation reduces investment in the business. Unnecessary or duplicative regulatory requirements imposed on insurers add costs that are ultimately paid by personal and commercial consumers through higher premiums. These costs in turn reduce productivity and prevent more beneficial expenditures such as businesses investing in research and offering new products or services and related job creation.

Impact on consumers, market participants and financial companies: Rising regulatory costs that create higher costs for consumers restrict their ability to buy more beneficial coverage. PCI, in conjunction with the Ward Group (AON Hewitt), conducted a corporate/regulatory compliance cost survey in 2016 which showed these expenses continue to increase annually, including a 19 percent overall increase from 2013 to 2015. In addition, because regulatory costs disproportionately impact small and medium-sized insurers, they can force consolidation and reduce competition.

Legislation:
Title V of the Dodd-Frank Act should be amended to:

- *Eliminate FIO's domestic interference with state insurance regulation and refocus FIO on defending and promoting U.S. state regulatory system and the views of state regulators in international insurance discussions in international discussions and negotiations. In addition to refocusing FIO on international activates, Title V should further be amended to:*
    - *Eliminate FIO's authority to issue duplicative data calls*
    - *Limit FIO's headcount*
    - *Require FIO to consult with and represent the views of the state insurance regulatory community; and*
    - *Eliminate FIO's subpoena authority*

B. Reform the Financial Stability Oversight Council (FSOC) and Non-Bank Systemic Risk Designations and Strengthen the Independent Insurance Expert

Description: FSOC has designated several insurance companies as SIFIs (systemically important financial institutions) over the objection of its insurance experts and the state regulators. In addition, it has failed to create uniform criteria for designation or a clear and unambiguous exit ramp, and its procedures lack fundamental transparency.

On the other hand, there may continue to be a role for FSOC in "looking over the horizon" and coordinating with functional regulators, including state insurance commissioners. If FSOC is continued, however, the Independent Insurance Expert's office should be enhanced with employees that are selected and managed by the Independent Expert, not by Treasury, and the office should be funded independent of the Treasury Department. The Independent Insurance Expert's office is disadvantaged in comparison with other FSOC members by its lack of independent staff and resources.

Impact on economic growth: The business of insurance is not systemically risky. Designated firms will be subject to enhanced (more restrictive) supervision, which will impose more burdens and costs on those insurers adversely impact their competitiveness, and absorb resources that could be better invested than on non-beneficial regulatory compliance.

Impact on consumers, market participants and financial companies: Unnecessary regulatory costs and burdens will ultimately be passed on in terms of higher premiums. In addition, the competitiveness of designated companies will be reduced.

Legislation: FSOC's ability to designate nonbanks as systemically important should be permanently eliminated. A representative of State insurance regulators should also be added as a voting member of the FSOC. The statute should also be amended to provide that the Independent Insurer Expert can remain after the expiration of his term until his successor is confirmed.

C. Require Targeted and Proportional Regulation of Insurance Companies Subject to Federal Reserve Board Supervision

Description: The Board of Governors of the Federal Reserve System (Federal Reserve) was granted jurisdiction over insurance companies that are affiliated with thrift institutions. Only 14 remain, of which many only have tiny banks. Nonetheless, the Federal Reserve supervision is quite onerous. Legislation is needed to provide for tailored and proportional supervision of the depository institution, and not the business of insurance which has robust holding company supervision run by state-led supervisory colleges.

Impact on economic growth: Reducing regulatory burdens and freeing up capital will allow for more investment in the general economy.

Impact on consumers, market participants and financial companies: These reforms will benefit consumers, market participants, and financial companies by reducing regulatory costs and burdens and allowing the savings to be passed on to consumers. For example, one PCI member insurer has a very small community depository institution with only $30.5 million in assets – less than 0.2 percent of the holding company. Since the beginning of its regulation under the Federal Reserve, this company has had significantly increased administrative burdens on their compliance and regulatory staff. In fact, twenty-five percent of its regulatory and compliance staff time is now spent communicating with the Federal Reserve. Other regional insurers with small community thrifts have suffered and expressed similar burdens. In addition, both inside and outside counsel has had to engage in interpreting and responding to requests for information or interpretation of rules, some of which are duplicative to their current OCC and state regulatory requirements.

Legislation: Legislation should be enacted to provide for targeted and proportional Federal Reserve regulation of insurance companies. Suggested legislative language follows:

Sec. 1. SUPERVISION OF PERSONS REGULATED BY STATE INSURANCE REGULATOR ENGAGED IN BUSINESS OF INSURANCE.

(a) In supervising a depository institution holding company including a person regulated by a state insurance regulator engaged in the business of insurance, the Board shall not supervise such person but shall rely on the regulation of the state insurance regulator or regulators that regulate such person.

(1) This provision shall not prohibit the Board from supervising any depository institution that is controlled by a person regulated by a state insurance regulator engaged in the business of insurance.

Sec. 2. PROPORTIONAL SUPERVISION OF DEPOSITORY INSTITUTION HOLDING COMPANIES HOLDING PERSONS REGULATED BY STATE INSURANCE REGULATOR ENGAGED IN BUSINESS OF INSURANCE.

(a) The Board's supervision of a depository institution holding company principally engaged in the business of insurance shall be proportional to the risk to the Federal Deposit Insurance Fund posed by the holding company or any member thereof. The Board shall not concern itself with the activities of the holding company or affiliates thereof except to the extent those activities pose a risk to the Federal Deposit Insurance Fund.

(1) "Principally engaged in the business of insurance" means that the aggregate assets held by the depository institution holding company and its subsidiaries that are in the business of insurance and regulated by a state insurance regulator exceed the other aggregate assets held by the depository holding company and its subsidiaries.

D. **Restrict Federal Reserve Ability to Conduct Examinations of Insurers Controlled by Banks or Thrifts**

Description: The Federal Reserve Board should not be permitted to conduct examinations of, or require reports from, any insurance company that is controlled by a bank or savings and loan holding company or of a company (and its subsidiaries) that simply holds the shares of the insurance companies. Under current law, the Federal Reserve may obtain information about the financial condition and activities of insurance companies that are subsidiaries of bank and savings and loan holding companies from state insurance authorities, who have complete authority to examine insurance companies and obtain reports regarding their activities. The Federal Reserve can avoid duplicating state efforts by obtaining information directly from state insurance authorities rather than imposing additional burdens on insurance companies and their consumers.

Impact on economic growth: Within the insurance sector, unnecessary regulation reduces investment in the business. Unnecessary or duplicative regulatory requirements imposed on insurers add costs that are ultimately paid by personal and commercial consumers through higher premiums. These costs in turn reduce productivity and prevent more beneficial expenditures such as businesses investing in research and offering new products or services and related job creation.

Impact on consumers, market participants and financial companies: Rising regulatory costs that create higher costs for consumers restrict their ability to buy more beneficial coverage. PCI, in conjunction with the Ward Group (AON Hewitt), conducted a corporate/regulatory compliance cost survey in 2016 which showed these expenses continue to increase annually, including a 19 percent overall increase from 2013 to 2015. In addition, because regulatory costs disproportionately impact small and medium-sized insurers, they can force consolidation and reduce competition.

Legislation: The Bank Holding Company Act and the Home Owners' Loan Act should be amended to restrict the Federal Reserve's ability to conduct an examination of an insurer controlled by a bank of thrift. Suggested legislative language follows:

Amendments to Bank Holding Company Act of 1956, as amended (12 U.S.C. §§ 1841 et seq.) and Home Owners' Loan Act (12 U.S.C. §§ 1464 et seq.)

1. Section 5(c)(4)(B)) of the Bank Holding Company Act of 1956, as amended, (12 U.S.C. § 1844(c)(4)(B)) is amended by adding at the end thereof the following:

   "Notwithstanding anything in this Act or in any other statute, regulation or order, the Board shall not make examinations of, or require reports from:

   (1) any nonbank financial company that is an insurance company (as defined in section 2(q) of this Act (12 U.S.C. § 1841(q)) that is directly or indirectly controlled by a bank holding company, or

   (2) any nonbank company (and its subsidiaries) that is controlled by a bank holding company and that is exclusively engaged in directly or indirectly controlling one or more insurance companies.

   A company is exclusively engaged in controlling one or more insurance companies if on a consolidated basis 90 percent or more of the assets of the company and the companies it directly or indirectly controls are assets of the insurance companies it controls."

2. Section 10(b) of the Home Owners' Loan Act (12 U.S.C. § 1467a(b)) is amended by adding at the end thereof the following:

   "(7) Notwithstanding anything in this Act or in any other statute, regulation or order, the Board shall not make examinations of, or require reports from:

   (1) any nonbank financial company that is an insurance company (as defined in section 2(q) of the Bank Holding Company Act (12 U.S.C. § 1841(q)) that is directly or indirectly controlled by a savings and loan holding company, or

   (2) any nonbank company (and its subsidiaries) that is controlled by a savings and loan holding company and that is exclusively engaged

in directly or indirectly controlling one or more insurance companies.

A company is exclusively engaged in controlling one or more insurance companies if on a consolidated basis 90 percent or more of the assets of the company and the companies it directly or indirectly controls are assets of the insurance companies it controls."

E. Elimination of Federal Reserve Authority Over Top-Tier Insurers

Description: Some insurance holding companies now supervised by the Federal Reserve have an insurance company as the top-tier controlling entity. In this case the primary functional regulator, the insurer's state insurance department, is supervising the entire group, and Federal Reserve supervision risks duplication and conflict. The Bank Holding Company Act and the Home Owners' Loan Act should be amended to provide that an insurance company that (1) controls a bank or another bank holding company is not a bank holding company for purposes of the Bank Holding Company Act, or (2) controls a savings association or another savings and loan holding company is not a savings and loan holding company for purposes of the Home Owners' Loan Act if it is principally engaged in the business of insurance. A company should be deemed to be principally engaged in the business of insurance if the company's assets attributable to the company's insurance activities are more than 50 percent of the consolidated assets of the company. If the insurance company is not a bank holding company, a subsidiary of the company (such as an intermediate company that directly or indirectly control the bank or savings association) also will not be a bank or savings and loan holding company.

Impact on economic growth: Within the insurance sector, unnecessary regulation reduces investment in the business. Unnecessary or duplicative regulatory requirements imposed on insurers add costs that are ultimately paid by personal and commercial consumers through higher premiums. These costs in turn reduce productivity and prevent more beneficial expenditures such as businesses investing in research and offering new products or services and related job creation.

Impact on consumers, market participants and financial companies: Duplicative regulation increases costs unnecessarily for consumers. Conflicting regulation can increase those costs even further, and in extreme cases could conceivably threaten the ability of an insurer to operate appropriately. Redundant and conflicting regulatory authority also wastes scarce regulatory resources, at both the Federal and state levels.

Legislation: *The Bank Holding Company Act and the Home Owners' Loan Act should be amended to eliminate Federal Reserve authority over top-tier insurers. Suggested legislative language follows:*

Amendments to Bank Holding Company Act of 1956, as amended (12 U.S.C. §§ 1841 et seq.) and Home Owners' Loan Act (12 U.S.C. §§ 1464 et seq.)

1. Section 2(a)(5) of the Bank Holding Company Act of 1956, as amended, (12 U.S.C. § 1841(a)(5)) is amended by adding at the end thereof the following:

> "(G) No company (or subsidiary thereof) is a bank holding company by virtue of its direct or indirect control of a bank or bank holding company if the company is an insurance company as defined in section 2(q) of this Act (12 U.S.C. § 1841(q)) and is principally engaged in the business of insurance. For purposes of determining whether the insurance company is principally engaged in the business of insurance, the assets of the insurance company shall be consolidated with the assets of the bank or bank holding company and other companies that are directly or indirectly controlled by the insurance company. A company is principally engaged in the business of insurance if the assets of the company that are attributable to insurance activities are more than 50 percent of the consolidated assets of the company and the companies it controls."

2. Section 10(a)(3) of the Home Owners' Loan Act (12 U.S.C. § 1467a(a)(3)) is amended by adding at the end thereof the following:

> "(C) No company (or subsidiary thereof) is a savings and loan holding company by virtue of its direct or indirect control of a savings association or savings and loan holding company if the company is an insurance company as defined in section 2(q) of the Bank Holding Company Act (12 U.S.C. § 1841(q)) and is principally engaged in the business of insurance. For purposes of determining whether the insurance company is principally engaged in the business of insurance, the assets of the insurance company shall be consolidated with the assets of the savings association or bank holding company and other companies that are directly or indirectly controlled by the insurance company. A company is principally engaged in the business of insurance if the assets of the company that are attributable to insurance activities are more than 50 percent of the consolidated assets of the company and the companies it controls."

F. Prevent Unproductive Domestic and International Capital Standards

Description: The U.S. insurance industry is extremely well regulated and capitalized, and state regulated insurance activities passed the stress test of the global financial crisis and subsequent years highlighting the rigor of the state-based regulatory system. Since that time, however, under pressure from the European Union, the International Association of Insurance Supervisors (IAIS), Federal Reserve Board and National Association of Insurance Commissioners (NAIC) have been considering approaches for imposing additional group capital measurements or requirements for large international groups (IAIS), SIFIs and S&L holding companies with insurance affiliates (Federal Reserve) and U.S. insurance groups (NAIC). These pose the potential for imposing conflicting and excessive capital requirements on U.S. insurance groups. Group capital requirements are designed to address banking source of strength needs and prevent a run on a bank holding company. Property-casualty insurers are strictly regulated at the legal entity level with exceptionally low leveraging and no likelihood or historical incident of a bank-like investor run. In fact, state insurance regulation is designed to foster extremely robust competition for consumers with solvency requirements and state guaranty fund safety nets designed to ensure consumer protection and claims payment after a failure ("gone concern" regulation) as opposed to trying to nearly eliminate any possibility of failure in the entire holding company ("going concern" regulation). Bank-like group capital standards may benefit investors, but are expected to significantly raise costs for consumers, reduce the competitiveness of U.S. insurers, and do not provide any consumer benefit in the insurance world.

Impact on economic growth: The U.S. solvency regulatory system, including its capital standards, has helped create the world's largest and most competitive insurance market in the world. This market helps support U.S. economic growth in virtually every sector. On the other hand, the wrong capital standard will consume financial resources of insurers, could reduce insurers' ability to provide coverage, and could reduce insurers' investments in infrastructure that in turn drives economic development.

Impact on consumers, market participants and financial firms: The U.S. insurance regulatory system is focused on protecting consumers and has an excellent track record. Our capital standards reflect the comprehensive state-based regulatory system and the presence of the guaranty funds. On the other hand, a Solvency II capital standard that reflects the very different conditions in Europe, if imposed in the U.S. is estimated to raise consumer prices \$50 to \$100 dollars a year for auto and homeowners' insurance coverage. And the increased capital standards would also interfere with competition, even as they provide no additional benefit to consumers.

Legislation: Legislation should assure that no international group capital standard will be developed by the IAIS, or adopted in the U.S., unless it recognizes the state-based U.S. risk-based capital system (RBC) as fully acceptable. The Federal Reserve should continue to use the U.S. RBC system as the basis for its group capital requirement, and should not further develop its "consolidated approach" for SIFIs. The NAIC's Group Capital Calculation should continue to be based on its RBC system, and should remain a tool for regulatory analysis and should not become a requirement that triggers regulatory sanctions.

G. National Association of Registered Agents and Brokers Reform (NARAB II)

Description: The NARAB reform legislation was enacted during the 114th Congress (2015-2016) as part of the Terrorism Risk Insurance Program Reauthorization Act of 2015 (H.R. 26). NARAB II establishes the National Association of Registered Agents and Brokers (NARAB) and will provide a one-stop licensing mechanism for insurance agents and brokers operating outside their home states, while preserving the longstanding authority of states to oversee insurance producers.

Impact on economic growth: NARAB II will provide a more competitive insurance market and improve state insurance regulation to the benefit of consumers.

Impact on consumers, market participants and financial companies: Consumers, insurance companies and their agents would benefit from a more efficient facilitation of insurance transactions. Consumers will have more choices, and companies will be able to get their agents licensed in multiple states in a cost-effective way.

Legislation: The first step in implementing NARAB II is for the President to nominate; and the

Senate to approve 13 members to serve on the NARAB Board of Directors. The Board must be comprised of 8 current state insurance commissioners, 3 property casualty insurance representatives, and 2 health/life representatives. The preceding administration nominated 10 individuals to serve on the Board. However, the Senate did not vote on these nominations.

H. Make the CFPB More Accountable and Strengthen Insurance Exclusion

Description: Congress generally excluded the business of insurance from the authority of the Consumer Financial Protection Bureau (CFPB), with only extremely limited and proscribed exceptions – in recognition of the extensive state regulatory regimes. Despite these limits, the CFPB is extending its authority to insurance-related products through the regulation of auto financing that is often used to purchase extended warranties, gap insurance and related ancillary products. The statutory excluded insurance from CFPB oversight should be strengthened to prevent this expansion. More broadly, Congress should consider making the CFPB more accountable, for example through appointment of bipartisan commissioners or making it subject to Congressional appropriations.

Impact on economic growth: The CFPB runs the risk of interfering with state-based regulation by adding another layer and thereby wasting resources on unnecessary duplicative regulation.

Impact on consumers, market participants and financial companies: CFPB's actions can demand resources that would be better spent in the market. In addition, its activities can have an adverse effect on innovation.

Legislation: The CFPB statute should be amended to make it more accountable and to further strengthen the insurance exclusion.

I. Make OFR More Accountable and Assure Useful and Accurate Research

Description: The Office of Financial Research (OFR) needs to be made accountable. OFR currently has been an open fund for academic research reports that are often uninformed and have been widely criticized, including by federal entities, with no request or interest from the agencies with subject matter expertise. OFR's budget and footprint has grown in leaps and bounds with little accountability or demonstration of need or required direction from the functional regulators. The functional regulators already have extensive expertise and ability to issue data calls and produce reports, with far more relevance and accountability.

Impact on economic growth: OFR's budget should be reallocated to support the functional regulators and their efforts to benefit consumers. This would not only generate economic savings, but would also reduce the time wasted by the functional regulators needed to debunk and correct OFR's reports.

Impact on consumers, market participants and financial companies: OFR has provided little value. OFR can provide research useful to regulatory agencies and have a positive impact.
Legislation: Dodd-Frank provisions creating OFR should be modified.

Impact on consumers, market participants and financial companies: OFR is not designed to protect consumers or the marketplace, but rather duplicates ongoing field reviews by other regulators and academics.

Legislation: Dodd-Frank provisions creating OFR should be modified to either eliminate OFR, or make it more modular – pulling experts from the functional regulators and supporting their efforts where explicitly directed by FSOC.

PROPOSALS TO RE-ENGINEER FEDERAL INSURANCE PROGRAMS

Generally, U.S. insurance markets work well and should remain as free as possible from federal government intervention. However, in a small number of areas, the federal government can play a restrained but helpful role.

A. Preserve and Reform the Terrorism Risk Insurance Program

Description: The Terrorism Risk Insurance Act (TRIA) works to keep the commercial insurance market viable in writing most terrorism insurance risks, but makes that possible by providing a federal backstop (which has not been used yet) in the event of truly mega-catastrophic risk (yet to ever be experienced).

Impact on economic growth: TRIA bolsters America's economy by ensuring the availability of terrorism coverage. Many lenders and investors require terrorism insurance for construction or ongoing financing of major facilities. Without TRIA, and without terrorism coverage, many of these projects would be unable to obtain financing. Recall the widespread economic crisis that was created by the 9/11 attacks, including a significant loss of value and market activity. TRIA has been a key component to assisting the insurance industry in providing financial security against terrorism in an increasingly dangerous world.

Impact on consumers, market participants and financial companies: TRIA has had widespread favorable impacts on consumers and other sectors in terms of re-establishing financial markets, real estate values and providing security to support commercial activity. Small and medium sized insurers are at the core of the U.S. business insurance marketplace. They provide expertise for market niches that would otherwise be underserved and keep the insurance market competitive. They have economic impact well beyond their individual company market shares. They and the businesses they insure are the most likely to suffer should Congress make significant changes to the TRIA.

Legislation: When TRIA comes up for reauthorization in 2020, a long-term program, if not a permanent program, should be considered. Most importantly, the program must be accessible to all insurers, regardless of size. Small and medium sized insurers provide essential competition in the market today. If TRIA is reauthorized with excessively high thresholds – deductibles, co-shares, or triggers, then the retained risks for these insurers, would exceed the probable maximum losses that they can retain risk driven out of the market. Congress would thus reduce insurance availability.

At the 2020 TRIA reauthorization, a definitive timeline for certifying an act of terrorism should be considered. Treasury should be permitted to delay the decision for succeeding 45-day periods, but at the end of each period required to publish in the Federal Register a notice explaining why more time is needed. These types of provisions are necessary to keep the public fully apprised of the status of Treasury's inquiry into the event.

B. Reform the National Flood Insurance Program (NFIP)

Description: The National Flood Insurance Program (NFIP) has filled a void that commercial insurers have been unwilling to fill for decades; however, with the development of new technology and modeling capability, there is increasing interest within the commercial market to write more flood risk. Policymakers should encourage this and seek to find ways to allow private markets to meet the economy's need for flood insurance, while continuing to maintain a strong NFIP program as the market transitions.

Impact on the economic growth: Floods can be devastating for entire regions, as exemplified by the flooding that occurred because of levee breaks from Hurricane Katrina or the flooding associated with Superstorm Sandy.

Impact on consumers, market participants and financial companies: Virtually all individuals, communities and economic sectors can be seriously harmed due to flooding. Insurance coverage is therefore a significant need for all individuals, communities and financial sectors to provide funds to recover and encourage mitigation against this increasingly prevalent hazard.

Legislation: *PCI strongly supports long-term NFIP reauthorization that avoids a program lapse and includes reforms that increase private insurer participation and consumer choice. Legislation should include:*

- *A long enough extension to provide stability in the marketplace for both consumers and the companies entering, servicing or competing with the program;*
- *Increased lender acceptance of private flood policies, as envisioned in the* ***"Flood Insurance Market Parity and Modernization Act****," bipartisan legislation by Senators Heller and Tester (S. 563) and Reps. Ross and Castor (H.R. 1422);*
- *Elimination of WYO non-compete clause;*
- *Insurer access to NFIP underwriting data and publication of updated NFIP rate reviews; and*
- *Public service education on the necessity and benefits of flood insurance.*

We strongly support NFIP's long-term reauthorization before the September 30th expiration date. However, if Congress cannot meet the September 30th deadline, it is critical to extend the program and avoid a program lapse.

PROPOSALS TO PROMOTE INTERNATIONAL MARKET ACCESS AND REDUCE INTERNATIONAL BARRIERS FOR U.S. INSURERS

A. Assure Vigorous Defense of U.S. Insurance and Insurance Regulation in International Forums

Description: Currently, Treasury's FIO, the Federal Reserve Board and the states all represent the U.S. in international insurance regulatory discussions in organizations such as the IAIS and Financial Stability Board. Yet, the federal agencies are often not aligned with the positions of state regulators. Legislation is need to force the federal agencies to reach consensus with the states and support our state-based insurance regulation.

Impact on economic growth: lack of coordination weakens the U.S. voice and results in international standards to which the U.S. should not or cannot agree. Our companies then will likely face discrimination in foreign jurisdictions and there may be less insurance capacity in the U.S.

Impact on consumers, market participants and financial companies: Eventually, U.S. companies will be put into an uneven position in international competition.

Legislation: FIO should be given more direction from Congress or the Administration to support the U.S. state-based regulatory system in international negotiations and achieve consensus with the state insurance regulators on goals and strategy. Title V of Dodd-Frank should be amended to require FIO to consult with state insurance regulators and to advocate their consensus views in international negotiations.

B. Prevent Discrimination and International Barriers Against U.S. Insurers

Description: One of the most significant recent obstacles to US insurers operating internationally was discriminatory actions taken by certain EU countries in the last year to restrict the ability of U.S. reinsurers to do business in Europe. The Treasury Department has worked to resolve those issues, with some preliminary success.

Impact on economic growth: When U.S. insurers are restricted by foreign barriers, they loss revenues and employment in the U.S. This is follow on effects in terms of reducing economic growth in the U.S.

Impact on consumers, market participants and financial companies: The U.S. International Trade Commission in a 2009 study reported that U.S. property casualty insurers lose nearly $40 billion annually and related employment due to foreign barriers to trade.

Legislation: Meaningful free trade and mutual regulatory recognition agreements should be negotiated and enforced to prevent discrimination against U.S. companies in foreign markets. This discrimination takes many forms, including mandatory local reinsurance cessions and forced data localization

PROPOSALS TO ACHIEVE OTHER REFORMS THAT AFFECT INSURANCE

A. Improve the Tax Structure for Insurers to Promote Business at Home and Abroad (including discussion of "border adjustment tax")

Description: The current proposals for Federal Tax Reform are not specific on how the property casualty industry would be treated. Our industry is unique and, accordingly requires specific rules to be taxed fairly.

Insurance is heavily regulated at the state level. State regulators require all insurers to use statutory accounting, which is a special accounting method that is intended to ensure insurers will be able to pay policyholder claims when they are due. Statutory accounting governs when insurers may establish loss reserves to pay for incurred losses and when insurers recognize income.

Impact on economic growth: State insurance regulators, federal tax authorities and insurers have spent decades working together to align the state mandated statutory accounting treatment and timing of insurance with the tax treatment. While shifting the tax code to a cash flow basis will benefit most industries (where input costs are paid in advance and payment received after production), the insurance business has a reverse timing (payment up front and input costs paid over time) that would be severely disadvantaged and create enormous transition mismatches with insurers' statutory tax treatment. The result would be significantly increased costs and legal uncertainty. In particular, long-tail insurance lines such as payment to injured workers or accident victims would become much more expensive as insurance costs in some cases could not be deducted until years after premiums are received.

Impact on consumers, market participants and financial companies: The wrong outcome in tax reform will result in higher costs for insurers, higher prices for consumers and less competition.

Legislation: We support tax reform legislation that would:

- *Result in an overall net tax reduction*
- *Preserve:*
  - *Subchapter L treatment for insurers (incl. statutory accounting deference)*
  - *Discounted loss reserve deductibility*
  - *Immediate advertising expense deductibility*
  - *Net operating loss deductibility*
  - *Capital loss and AMT credit carryovers and carrybacks*
  - *Maintain the current 15% "haircut" on tax-exempt interest (proration)*
- *Maintain level playing field*
- *Simplify the tax code*

B. Enhance Cost Benefit Analysis Requirements for Financial Services Agencies

Description: While cost/benefit analyses have long been required for regulatory agencies, their use in financial services regulatory agencies has been inconsistent.

Impact on economic growth: Requiring robust cost/benefit analyses will enhance the efficiency and effectiveness of regulation and allow resources to be spent on other priorities.

Impact on consumers, market participants and financial firms: Fewer and more efficient and effective regulation has dual benefits—reducing costs and at the same time better assuring that legitimate regulatory policies are more effectively implemented. All three win.

Administrative: Language in Executive Orders should be fully extended and applied to the Treasury and Federal Reserve Board regulatory activities.

Legislation: Legislation should be enacted to require that all financial regulations be subject to cost-benefit analysis requirements.

C. Limit *Chevron* Deference

Description: *Chevron* deference has been used to defend inefficient and ineffective regulations and should be limited.

Impact on economic growth: This reform will help prevent the implementation of unproductive regulation that does not square with congressional delegation and intent.

Impact on consumers, market participants and financial companies: All would benefit from less inefficient and/or ineffective regulation.

Legislation: Statutory language has been previously considered by Congress, and PCI would be pleased to make it available.

D. Support Effective Public Health and Safety Programs

Description: Safety and public health regulatory agencies play a vital role in research and establishing minimum transportation, health and workplace standards. Legislation should support them.

Impact on economic growth: The U.S. loses hundreds of billions of dollars annually due to preventable trauma and the related medical costs and loss of productivity. The costs of poor public health are almost incalculable.

Impact on consumers, market participants and financial companies: All three would benefit from maintaining current levels of safety and public health and enhancing them in a reasonable cost/beneficial way.

Legislation: Assure adequate direction and funding for effective public health and safety regulatory programs and agencies.

E. Weather prediction programs and data

Description: The United States is experiencing a long-term increase in the frequency and severity of wildfires, flooding and other weather related events. Many of these events occur with little or no advance warning to the public, placing both lives and property at risk.

Impact on economic growth: Without appropriate predictive tools, lives and property are lost, and the recovery from such events will take time.

Impact on consumers, market participants and financial companies: Predictable severe weather information is needed to address and protect consumers, businesses and the financial impact of such events on insurers.

Legislation: Language is readily available for such activities that would provide the U.S. Forest Service with funds for wildfire prevention, suppression, and consumer education; for the Federal Emergency Management Agency (FEMA) to update flood insurance rate maps; for the National Oceanic and Atmospheric Administration (NOAA) to provide agency scientists with the most technologically advanced anemometers and radar equipment; and for the U.S. Geological Survey (USGS) to provide agency scientists with the most technologically advanced seismometers. Such predictive tools will allow the agencies to provide valuable information that will minimize loss of life and property and contribute to economic growth.

F. Increase Opportunities for Insurer Investment in the Economy (e.g. infrastructure)

Description: Property casualty insurers have historically been among the largest investors in U.S. municipal bonds, representing 10 percent of this $3.8 trillion market. New infrastructure projects will need new investment from insurers to finance them and would benefit from commercial insurance and surety products.

Impact on economic growth: Increased infrastructure investment could significantly increase short-term and long-term growth and U.S. economic competitiveness. Insurers not only invest in such bonds, but provide insurance for construction and other businesses doing the work.

Impact on consumers, market participants and financial companies: Improved infrastructure would benefit consumers and users and financial companies as both users and investors. These are vital to continuing the growth of the economy and availability of products for construction and other businesses as well as safer highways.

Legislation: Property casualty insurers are potentially interested in infrastructure investments, particularly where appropriately recognized by state insurance regulations as qualifying investments.