



COMPETITIVE ENTERPRISE INSTITUTE

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Dear Member:

I'm writing to you in response to a letter that the Independent Insurance Agents and Brokers of America (the Big "I") recently sent to members of Congress voicing its "strong opposition" to The National Insurance Act (H.R. 3200.) I am a Senior Fellow and direct studies of insurance markets Competitive Enterprise Institute, a non-partisan think tank here in Washington. Like the Big I, both I and my colleagues at CEI support the cause of insurance industry regulatory modernization. Unlike the Big I, we do not have a position on H.R. 3200. We do, however, support optional federal chartering—H.R. 3200's core—in concept.

I'm writing this letter in an effort to clarify the debate and provide some analysis of the Big Is claims. In particular, the letter focuses on the three major reasons that the Big I cites for opposing H.R. 3200.

Big "I": "Local regulation works best for consumers, and the state-based system ensures a level of responsiveness to consumers that could not be matched at the federal level."

Analysis: *Without trying federal regulation, it's almost impossible to know if state regulation really is more (or less) responsive.* In any case, the proposed bill would leave the system of state regulation intact. Under H.R. 3200, state regulated insurance companies would still exist everywhere. Nationally regulated companies would still have to pay premium taxes and follow all general state-level business regulations under H.R. 3200. If a federal regulatory system proves inflexible and unresponsive, in fact, the entire OFC project will fail. Competition between regulators—which an OFC would create—encourages consumers, businesses, and regulators to work together and come up with better, more flexible regulatory systems. In most cases, it produces better regulation.

Big "I": "H.R. 3200 is ostensibly modeled on the dual banking system; however, there are fundamental differences between banking and insurance. Bank consumer products are national in scope while insurance products are individualized and geographically unique, and nothing similar to the insurance claims process (which results in millions of consumer inquiries annually) exists in the banking industry."

Analysis: *Insurance, like banking, involves companies offering similar products all across the country.* Nearly all banks offer a mix of deposit accounts, investment products, and loans, just as most large national insurers that write personal lines insurance issue homeowner's, auto, and life insurance. Of course, regional differences *do* exist: insurers in heavily urbanized areas write little farm insurance, just as banks in those

same areas make few agricultural loans. In the insurance industry, furthermore, many differences in products offered in various states result from regulatory rather than intrinsic differences between jurisdictions. The Big I is right to say that nothing analogous to the insurance claims process exists for banking. By the same token, however, nothing as costly, consequential, or complex as a typical mortgage exists in the personal lines insurance business.

Big “I”: “Despite assertions to the contrary, this legislation would not solve U.S. capital markets competitiveness concerns. Any perceived decline in competitiveness is due to disparate tax treatment, diverse financial reporting standards, and the costs of excessive litigation.”

Analysis: *Neither H.R. 3200 nor any other single piece of legislation--including freestanding bills to address tax treatment, financial reporting standards, and excessive litigation--is likely to address capital markets competitiveness concerns on its own.* That said, two factors suggest that the current U.S. insurance regulatory system proves a particular drag on the American competitiveness.

First, the existing regulatory system discourages any sort of innovation in the property and casualty insurance industry. An insurer seeking to offer a new product nationally must receive at least 51 different approvals. As a result, the most recently introduced significant new product for ordinary consumers—homeowners’ insurance—came out in 1959. An optional federal charter would make it easier to introduce new products.

Second, the Organization for Economic Cooperation and Development finds that Americans pay much more for insurance than people in other large, advanced economies. An OFC could potentially streamline regulation, promote industry efficiency, and, increase the American economy’s tolerance for risk-taking. (Fundamental differences in legal and social welfare systems, however, do limit the usefulness of any international comparison of insurance markets.)

The Big “I”’s letter raises some points well worth considering. I hope you will consider this analysis as well. An OFC should not be the only regulatory reform Congress considers. But it should receive serious thought. Both you and members of your staff should feel free to e-mail me at elehrer@cei.org or on the telephone at (202)331-2283 if you have additional questions. You may also wish to examine the OFC FAQ we recently sent to your office.

Yours Truly,

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The Competitive Enterprise Institute