



October 27, 2009

The Honorable Barney Frank
Chairman, Committee on Financial Services
United State House of Representatives
Washington, D.C. 20515

The Honorable Spencer Bachus
Ranking Member, Committee on Financial Services
United States House of Representatives
Washington, D.C. 20515

Dear Chairman Frank and Ranking Member Bachus:

Today, you'll consider a manager's amendment that would change the scope and reach of H.R. 2609, The Federal Insurance Act of 2009. This measure deserves your careful, deliberate consideration. To assist your deliberation, we wish to respond to a letter from the National Conference of State Legislators on this topic by making three points about this measure and other amendments that may be proposed in addition:

It's perfectly appropriate for the Federal Government to Monitor State Laws for Their Implications as they Relate to International Trade

Everyone who has studied the issues acknowledges that the federal government is supreme in issues of international trade. Individual states should not and, and constitutionally cannot impose barriers which violate America's international treaty obligations. Quite simply, our federal system delegates powers over trade to the federal government. The federal government must take these responsibilities seriously and, when necessary, act to preempt state laws that place illegal restrictions on the free flow of goods and services.

There is Good Reason to Support Further Study of the National Insurance Market

America's 50-state insurance regulatory system, by most measures, is an anachronism. Both of the other G-8 countries with strong federal systems—Germany and Canada—regulate insurance both at the national and sub-national levels. While American workers are more productive than their foreign counterparts in almost all sectors, they lag behind in the Finance, Insurance and Real Estate sector. The state regulatory system may have something to do with this. Likewise, a confusing mish-mash of state regulations has resulted in a personal lines insurance industry that has come out with very few new property and casualty insurance products. The federal government has an important role in studying these matters and making recommendations as to ways in which we could improve our insurance system.

The Time is Currently Ripe for Federal Insurance Reform

Any broad effort to reform financial services will necessarily touch on insurance reform. Quite simply, every major insurance company sells a wide variety of financial products. Likewise, almost every major financial products company sells insurance of some sort. Any broad reform of financial services, necessarily, will come to touch on insurance. In any case, the current financial crisis has certainly touched the insurance sector: at least two major insurers have had to rely on the federal government simply to stay afloat. Thus, measures dealing with insurance are a key part of any package of reforms to deal with the financial crisis.

Conclusion

We ask that you give the manager's amendment your careful consideration. Many of the arguments that NCSL has advanced are lacking. We urge you to give the amendment and any additional proposals careful consideration.

Yours truly,

Eli Lehrer, Senior Fellow, The Competitive Enterprise Institute

Steve Pociask, President, The American Consumer Institute