COALITION FOR COMPETITIVE INSURANCE RATES

The Honorable Paul Ryan
1233 Longworth House Office Building
Washington, DC 20515

The Honorable Orrin Hatch
104 Hart Senate Office Building
Washington, DC 20510

The Honorable Sander Levin
1236 Longworth House Office Building
Washington, DC 20515

The Honorable Ron Wyden
221 Dirksen Senate Office Building
Washington, DC 20510

February 2, 2015

Dear Chairmen Ryan and Hatch and Ranking Members Levin and Wyden:

The undersigned members of the Coalition for Competitive Insurance Rates and others are writing to express our concern about a proposal within President Obama's FY 2016 budget which, for the sixth year, would seek to deny a tax deduction for certain reinsurance premiums paid to foreign-based affiliates by domestic insurers. The President's proposed tax on foreign affiliate reinsurance would only serve to limit US insurance capacity and drive up the cost of insurance, compelling homeowners and small businesses, particularly those in disaster-prone states, to shoulder the burden of this anti-competitive tax.

The President's budget proposal closely resembles legislation from the 113th Congress (H.R. 2054 and S. 991) introduced by Reps. Richard Neal (D-MA) and Bill Pascrell (D-NJ) and Sen. Robert Menendez (D-NJ). A growing, bipartisan chorus of state and federal officials has consistently and vocally opposed any discriminatory measures found in the President's budget or the Neal-Pascrell-Menendez legislation. In recent years insurance commissioners representing Florida, Georgia, Louisiana, Mississippi, Nevada, North Carolina, Pennsylvania and South Carolina have all publicly rejected the proposals, as have agriculture commissioners from Florida, North Carolina and Tennessee, and Florida Governor Rick Scott.

Both the President's budget and related legislation would result in a dramatic increase in insurance rates and fewer coverage options across the country. In an economic impact study of previously introduced legislation by Rep. Neal and Sen. Menendez, the Brattle Group, a leading economic consulting firm, found such legislation would have reduced the net supply of reinsurance in the US by 20 percent, forcing American consumers to have paid a total of $11 to $13 billion a year more for their same coverage.

A robust insurance market open to as many competitors as possible is essential to consumers. Global reinsurers are financially strong and have substantial capacity to support US insurance companies. For example: losses from Hurricane Sandy reached nearly $19 billion; international insurance companies covered close to 50 percent of the losses. Interfering with current law, however, will unravel this benefit to business owners and homeowners who, in a state like Florida that is vulnerable to damaging storms, will witness multi-peril insurance respectively soar by 12.6 and 4.2 percent, according to Brattle. The only potential winners are the select few firms that stand to profit from decreased market competition.

This budget proposal would effectively postpone a deduction for certain reinsurance premiums paid by a US insurer to an international affiliate until payment of the associated losses. In effect, this is designed to punish international insurers by imposing additional taxes on their US operations. It essentially imposes an isolationist tariff on international insurance companies conducting business in the US, ultimately denying them a key risk management tool everyone else uses. They would have to either replace affiliate reinsurance with non-affiliate reinsurance or raise more capital. This would force the industry as a whole to reduce the size and scope of their US offerings to fit with their existing subsidiary capital bases. Above

all, it would increase the cost of reinsurance, making the coverage unaffordable for the companies and consumers that depend on it the most.

Perhaps most concerning is the fact that the Administration's budget proposal violates longstanding US tax policy that calls for the application of an arm's-length standard for related party, cross border dealings. In the insurance business, related party transactions are well documented; they are subject to mandatory approvals by state insurance regulators. Abundant comparative market regulatory information is available to enforce the so-called transfer pricing rules. The IRS has broad authority to enforce these laws as they relate to reinsurance transactions. The changes proposed are contrary to decades of US tax and trade policy and inconsistent with existing US tax treaty obligations. They could spur retaliatory actions by other countries and possibly damage relationships with important US trading partners.

Additionally, this tariff would violate World Trade Organization (WTO) commitments. One of the basic principles of the WTO is that a country cannot treat a foreign company worse than it treats its own companies; these proposals clearly single out foreign reinsurers for treatment worse than US reinsurers. Specifically, they subject foreign reinsurers – but not US reinsurers – to an arbitrary test to limit the tax deductibility of reinsurance premiums paid to them by their US-based affiliates. Just as foreign countries cannot protect their insurance markets for their domestic insurance companies and treat US companies unfairly, the US cannot protect the US market for domestic insurance companies and treat foreign companies unfairly. The European Union and individual countries like the United Kingdom, Switzerland and Germany have asserted that this tax would violate WTO commitments and tax treaties.

A robust insurance market, open to as many competitors as possible, is essential to protecting consumers and allowing businesses to operate and grow. We ask you to weigh the unintended consequences of a tax on foreign reinsurers, such as passing higher insurance rates down to policyholders and impeding economic growth, and also recognize the outpouring of opposition from consumer advocates, state officials, risk specialists, insurance industry experts, trade negotiators, business organizations and many others. These proposals are isolationist measures aimed at benefiting some competitors in the market at the expense of others. In today's fragile economy, the administration and Congress should avoid imposing new tariffs on the business transactions of US insurance subsidiaries of non-US insurers, which are already taxed under the US corporate income tax and a federal excise tax.

Sincerely,

American Consumer Institute
Florida Consumer Action Network (FCAN)
Consumer Federation of the Southeast
Risk and Insurance Management Society (RIMS)
Organization for International Investment (OFII)
Competitive Enterprise Institute (CEI)
Associated Industries of Florida
Florida Chamber of Commerce
Dublin (Ireland) International Insurance and Management Association (DIMA)
Insurance Europe
National Risk Retention Association (NRRA)
National Taxpayers Union
Munich Reinsurance America
ACE Group
Captive Insurance Council of the District of Columbia
Captive Insurance Companies Association (CICA)
Coalition for Competitive Insurance Rates
Florida Insurance Council
R Street Institute
Association of Bermuda Insurers and Reinsurers
Montana Captive Insurance Association
Vermont Captive Insurance Association
XL America
Arch Capital Group Ltd.
Argo Group
Zurich
Allianz of America
International Underwriting Association of London Ltd.
Swiss Re America
Sean Shaw, Founder Policyholders of Florida
Taxpayers Protection Alliance