

Contributing Authors

Timothy S. Farber
312-443-0532
tfarber@lockelord.com

John C. Gurley
312-443-0318
jgurley@lockelord.com

William J. Kelty
202-220-6967
wkelly@lockelord.com

Anthony B. Sherman
312-443-1737
asherman@lockelord.com

www.lockelord.com

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House Proposes Federal Office of Insurance Information

On April 17, 2008 United States Representative Paul Kanjorski (D-PA) introduced the “Insurance Information Act of 2008” (H.R. 5840) (the “**Act**”). The Act would create a Federal Office of Insurance Information (the “**OII**”) headed by a Deputy Assistant Secretary of the Treasury (the “**Deputy Secretary**”) within the Treasury Department. The OII appears to be a legislative response to the proposal for an interim Office of Insurance Oversight contained in Treasury Secretary Paulson’s Blueprint for a Modernized Financial Regulatory Structure (see Locke Lord Bissell & Liddell client alert entitled *Treasury Blueprint for Regulatory Reform* dated April 1, 2008).

The Act authorizes the Deputy Secretary to “establish Federal policy on international insurance matters and ensure that State insurance laws are consistent with agreements relating to such Federal policy entered into by the United States...with a foreign government or regulatory entity.” Such authority would apply to all lines of insurance except health insurance. The Deputy Secretary is also authorized to advise the Secretary of the Treasury on “major domestic and international insurance policy issues such as bond insurance and other financial guarantee insurance, private mortgage insurance, catastrophe insurance, and reinsurance collateral requirements.” This suggests that the OII could negotiate with European Union member nations as to the reinsurance collateral required for alien companies to reinsure business from United States domiciled insurers.

The Act preempts any state law or regulation to the extent that such law or regulation is “inconsistent with Federal policy on international insurance matters set forth in an agreement entered into by the United States or on its behalf by a designated representative (including the Secretary of Treasury ...) with a foreign government or regulatory entity.” The Deputy Secretary is authorized to determine the existence of such inconsistencies, subject to appeal to the Secretary of the Treasury. The broad language of the Act suggests that, in entering into agreements with foreign governments on matters such as reinsurance collateral or excess/surplus lines authority, the OII would have the authority under the Act’s preemption provisions to effectively remove regulatory oversight of alien insurers from the states.

While most of the Act focuses on international insurance matters, the Act also creates an advisory role for the OII on major domestic policy issues, such as financial guarantee insurance. Further, the Act provides that the OII may collect and analyze publicly available data and issue reports regarding all lines of insurance, except health. These provisions suggest the OII could influence domestic insurance issues and may set the stage either for the OII’s authority to be expanded in the future or for the evolution of the OII into the type of Federal regulator contemplated by optional federal charter proposals.

We expect support and opposition for the OII to track that of the Optional Federal Charter Bill (See Locke Lord Bissell & Liddell client alert entitled *Optional Federal Charter Bill Reintroduced: Proposed Alternative to State Insurance Regulation Returns for Another Round* dated June 21, 2007). The National Association of Professional Insurance Agents and the Independent Insurance Agents & Brokers of America have already voiced opposition to the OII. The strongest support for adoption is likely to come from the life insurance industry, with the American Council of Life Insurers already declaring its support. In any case, we think that passage of the Act or a variation thereof in 2008, an election year, is unlikely.

Locke Lord Bissell & Liddell will continue to track and analyze developments in this area.

ABOUT THE AUTHORS

Timothy S. Farber practice focuses on general corporate law, mergers and acquisitions, securities and insurance regulatory matters.

John C. Gurley is a partner with more than 30 years of extensive experience in all areas of corporate insurance, including regulatory issues.

William J. Kelty has extensive experience in a wide range of insurance regulatory and transactional issues, with particular concentration in mergers and acquisitions, financings, corporate governance and other general corporate matters and related regulatory and judicial proceedings.

Anthony B. Sherman is a partner at LBL and regularly advises clients on insurance and service contract regulatory issues.