From: Kermit Kubitz

Proposal: 1539 (7100-AE53) Supervised Institutions Significantly Engaged in Insurance Activities

Subject: Capital Requirements for Supervised Institutions Significantly Engaged in Insurance Activities

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Comments:

Public Comments on Capital Requirements for Supervised Institutions Significantly Engaged in Insurance Activities:

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Comment: It is appropriate and fully within the legislative authority provided by Congress to adopt enhanced prudential standards for insurance companies which may be systemically important. According to the Dodd-Frank legislation and associated regulations, the Federal Reserve System has the authority to establish procedures and requirements for systemically important companies, including insurance companies, based upon a number of factors, including their size, potential risk, interconnectedness, and a variety of other factors.

Section 113(a)(1) of the Dodd-Frank Act authorized FSOC to determine that
"a (U.S. nonbank financial company shall be supervised by the Board of Govemors and shall be subject to prudential standards" established by the Federal Reserve Board. The statute provided that this designation could be made if FSOC determines that material financial distress at the U.S. non-bank financial company, or the nature, scope, size, scale, concentration, interconnectedness, or mix of the activities of the US nonbank financial company, could pose a threat to the financial stability of the United States. In making this designation determination, Section 113(a)(2) provided that FSOC is required to consider ten specific factors, plus a catchall for "any other risk-related factors that the Council deems appropriate", that would justify making the designation determination. These provisions of the Dodd-Frank Act were implemented in regulations (12 C.F.R. $ 1310) adopted after notice and comment and in guidance appended to the regulations (12 C.F.R. pt.
1310, App.A).

Insurance companies have already been identified as systemically important, including AIG and Prudential. Other insurance companies are also being considered as potentially SIFI entities, although their final designation may be subject to judicial review. For example, the issue of MetLife as a SIFI is currently under judicial review in the DC Court of Appeals, with briefs filed recently. The regulations invited comment on size coverage, and any insurer having assumed pension obligations of more than $5 billion should be covered.

The regulations for SIFI Insurance should be comprehensive enough to cover both currently designated entities and potential future entities, and their products and activities, viewing the companies as a whole. In particular, the onset and growth of pension liability transfer markets means that substantial transfers of liability, on the order of $1-1.5 billion at a time, may be occurring, with insurance companies assuming the risk associated with pension obligations. These markets are large, interconnected with other economic institutions and flows, and have the potential for a significant impact on consumers and the financial industry as well as economic flows. Instead of the original issuer of a pension benefit, now an insurer may be assuming the original issuers liabilities, with obligations to thousands or millions of pension beneficiaries. And the risk, or remaining risk, of the government Pension Benefit Guarantee Corporation is also affected.

Managing multi billion risk being assumed by insurers under pension liability transfers requires close attention and risk management, and FRS regulations on enhanced prudential standards should include requirements for disclosure, assessment, and description of risk amounts and control procedures for each assumption of a pension obligation of more than $50 million, and an annual summary of all pension liabilities assumed and risk management applicable to such pension liability transfers on an annual basis, documented for senior management and available to the FRS if requested. See the attachments indicating the rapid growth of this pension liability transfer market, and concerns raised by interested parties, including former Fed Chairmen Bernanke and Volcker, and the AARP. Despite this, large entities such as GM. TRW, and others have apparently begun to attempt to move pension liabilites off their books and onto the assets and liabilities balance sheets of major insurers. This represents a major shift in risk, with uncertain long term consequences if a few of the concentrated insurers fail or must retrench on their newly assumed obligations.

While it is always necessary to strike a balance between regulation and free market behavior, the occurence of pension liability transfers in large quantities is a new enough feature of the financial system to take into consideration in design, and assurance of coverage of, prudential standards for all entities which may be systemically important to the financial system.

Failures to provide pension coverage to hundreds, thousands, or millions of retireees, or even the appearance of substantial risk of failure to provide previously agreed pension benefits, would cause significant uncertainty and heightened risk in the financial system.