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Via Email: regs.comments@federalreserve.gov

Robert deV. Frierson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

RE: **Capital Requirements for Supervised Institutions Significantly Engaged in Insurance Activities [Docket No. R-1539; RIN 7100 AE 53]**

Dear Sir:

On behalf of Mutual of Omaha, we appreciate the opportunity to comment on the Federal Reserve Board's (Board) Advance Notice of Proposed Rulemaking (ANPR) on capital requirements for supervised institutions significantly engaged in insurance activities. As a mutual insurance company that is also a savings and loan holding company (SLHC), Mutual of Omaha has been engaged in this issue since its inception, and has submitted multiple comments on the earlier related proposals.

We would like to acknowledge the time and energy the Board has dedicated to gathering data and its engagement with the industry, trade associations, and impacted companies, in order to better understand the insurance business model, the diversity of our institutions, and the nature of the existing state risk-based capital requirements. We believe significant strides have been made since passage of the *Dodd-Frank Wall Street Reform and Consumer Protection Act* (Dodd-Frank) and the *Insurance Capital Standards Clarification Act* (Collins Amendment), with regard to the Federal Reserve's understanding of the insurance company business model and how it is designed to promote the safety and soundness of regulated insurance companies.

Mutual of Omaha is a member of the Financial Services Roundtable (FSR), the American Council of Life Insurers (ACLI), the Thrift Coalition, and participants in the Winston & Strawn "Thrift Discussion Group," and we support the comments submitted by these associations with regard to the impact of the ANPR on our insurance operations. Keeping in mind the efforts taken to date, we believe:

- Passage of the Collins Amendment provides the Federal Reserve Board the flexibility to apply insurance-based capital standards, rather than bank-centric rules, to the insurers it oversees;
- Appropriate treatment of the assets and liabilities of insurance companies is paramount to protecting our policyholders;

- State risk-based insurance capital (RBC) standards are an effective, appropriate, and time-tested approach;
- The Board should defer to state risk-based insurance capital standards to the greatest extent possible; and
- Adequate time must be provided for application of any new capital standards to insurers supervised by the Federal Reserve.

We support the recommendations provided by the groups noted above, and offer the following additional comments for your consideration.

I. General Support for the Building Block Approach (BBA)

A. Board Approach to Regulatory Capital Standards for Insurance Groups

Mutual of Omaha supports efforts to establish regulatory capital standards for Board-supervised insurance groups that are tailored to the business of insurance, and that recognize the important role of state insurance regulators and RBC in the protection of policyholders and ensuring the safety and soundness of these institutions. This approach is consistent with the Congressional mandate reflected in the Collins Amendment, directing the Board to tailor capital requirements to the business of insurance, and to defer where appropriate to existing state insurance regulatory frameworks.

We appreciate that the ANPR appears to reflect this Congressional mandate, acknowledging the "unique risks, regulation and balance sheet composition" of insurance groups, and that regulatory capital standards based solely on existing standards for banking organizations "would not capture significant insurance risks."

B. Board Approach for Insurance Holding Companies

As an insurance company, Mutual of Omaha is subject to stringent, time-tested regulatory capital standards imposed by state insurance regulators. As a savings and loan holding company, Mutual of Omaha is also subject to the prudential capital requirements of the OCC as part of its consideration of the holding company as a "source of strength" for the depository institution.

We share these characteristics with a number of the institutions currently subject to the ANPR, and believe the most appropriate way to craft a BBA-based framework for Insurance Holding Companies is to reflect such an insurer's risk-based capital standard equivalent. This approach would clarify that as long as a mutual insurer meets its state regulator's capital requirements it would be deemed to be in compliance for purposes of Federal Reserve oversight. If it fails to meet its state regulator's capital requirements or, upon specific findings by the Federal Reserve that such requirements are inadequate, the Board could intervene and impose a capital standard on that particular insurer. Such a standard would not in any way diminish the Board's authority to act as a consolidated regulator, impose additional capital standards, or require that a mutual insurance company that is organized as a bank holding company or savings and loan holding company act as a source of strength for a subsidiary insured depository institution.

We believe this is appropriate and effective from a prudential standpoint, in that, because the legal entities in a covered SLHC group are, by definition, subsidiaries of the top-tier insurance company, the RBC ratio of that company accounts for and is reflective of the risks throughout the group. The Board's ability to supplement this standard and take broad supervisory action with respect to risks is also well-preserved. Moreover, deferring to the RBC ratio of a mutual SLHC's top-tier holding company also presents a considerable administrative benefit by removing the need to calculate regulatory capital regimes for each legal entity, and to apply the various adjustments to these baseline calculations contemplated by the BBA.

II. Additional Recommendations and Responses on Implementation of the BBA

We understand that using the RBC ratio of a mutual SLHC does not fit all entities under the Board's oversight, and we support the BBA approach submitted by the ACLI as a comprehensive, consistent basis for measuring insurance companies in a manner that allows for comparisons across the industry. We have worked closely with the ACLI staff and stakeholders in its development of a very robust response to the ANPR, and would draw specific attention and support to the comments of the ACLI pertaining to the seven-stage process to complete the BBA calculation.

A. Criteria for Inclusion

The Board seeks comment in the ANPR on the criteria used to determine which supervised insurers should be subject to tailored capital standards, and notes the option of using the current thresholds set out in Regulation Q, pursuant to which an insurance holding company would be subject to tailored capital requirements if it (i) is an insurance underwriting company or (ii) held 25 percent or more of its assets in subsidiaries that are insurance underwriting companies (other than assets associated with insurance for credit risk). We understand the Board may be receiving varied responses on this issue, and while a fixed threshold may not be the most effective measure, Mutual of Omaha would not object to the use of the Regulation Q threshold.

B. Compliance and Effective Date

One of the advantages of the BBA is that it allows for utilization of existing capital constructs to provide a platform for relatively short implementation. We believe the BBA should leverage the existing capital regimes to the greatest extent possible in order to meet the goals of the Board and the ANPR to: reflect an appropriate regime, minimize adjustments, speed implementation, and create a process that is transparent and comparable across regimes. We believe a Qualitative Impact Study (QIS) could be a useful tool for further understanding the processes and controls that may need to be developed for certain elements of the BBA, and feel 12 to 24 months should be allotted for companies to come into compliance with any final rules implementing the BBA.

C. Recognition of Diversification

An effective risk aggregation approach should recognize risk diversification that aligns with underlying economic risks, promotes prudent management, and as a result, improved financial strength. There are risk diversification factors that are not yet taken into consideration within the ANPR, including diversification across risk types and business segment, such as life insurance versus banking versus non-insurance operations. The recognition of diversification is well-established within both regulatory and industry insurance risk-based capital methodologies. Any aggregation of total required capital under the BBA framework should also recognize diversification benefits.

D. The Potential for Regulatory Arbitrage

The ANPR requests comment on the extent to which the BBA may be prone to regulatory arbitrage. In point of fact, we believe the potential for regulatory arbitrage is mitigated with respect to utilization of the existing capital regime for insurers and development of the BBA, which provides the Board with additional transparency at the legal entity.

The rules for RBC calculations are set out in National Association of Insurance Commissioners (NAIC) model laws and regulations. Adoption of and adherence to these model laws and regulations is a requirement for a state to remain accredited with the NAIC, a vital status for insurers. Currently all states are NAIC-accredited, and this accreditation requirement would undoubtedly act as a check on any effort to create avenues for material deviation or arbitrage with respect to the insurance RBC components of the BBA.

Moreover, existing state-based regulatory regimes for insurance holding companies subject covered entities to robust and increasingly rigorous inter-jurisdiction and group-wide regulatory and reporting requirements. For example, the NAIC *Insurance Holding Company System Regulatory Act* and *Own Risk and Solvency Assessment Model Act* require Insurance HCs and Insurance SIFIs to provide enterprise-level risk reporting and analysis to the group's state insurance regulators, which provides these firms' state insurance regulators with an enterprise-wide view of the firm and the ability to proactively mitigate and avoid inconsistent practices in particular jurisdictions that could give rise to regulatory arbitrage.

The NAIC and individual states continue to emphasize these and other initiatives to enhance group-wide regulation of all insurers, including insurance holding companies and SIFIs, reinforcing the NAIC and state systems' role as effective checks on potential regulatory arbitrage within the BBA.

We understand there are some inherent technical challenges in aggregating capital requirements across regimes, and that disparity across regimes can create the opportunity for regulatory arbitrage. However, these disparities can be comprehensively addressed by incorporating the attributes of the existing state regulatory and reporting regimes for Insurance HCs, the use of appropriate adjustments and scalars, and the Board's broad supervisory authority to deter any material deviations or the possibility for arbitrage.

E. Adjustments and Scalars

The ANPR seeks feedback on what adjustments may be appropriate to implement the BBA. We would ask the Board to consider the recommended adjustments identified in detail within the ACLI letter (Table 3, page 14), with regard to life captive and non-captive business, variable annuity captive and non-captive business, intragroup transactions, and permitted and prescribed practices.

The ANPR also contemplates the use of scalars as a mechanism for bringing different jurisdictional capital frameworks to comparable levels of supervisory stringency, with the Board requesting comment on benefits and challenges of such an approach. We understand that scalars may be a useful tool for comparing non-U.S. regulatory capital frameworks with the U.S. system. As a domestic insurance company, we would like to see the development of any scalar framework focus on simplicity, efficiency, and transparency. We believe it should provide for as uniform treatment as possible for similar regimes, and would support the ACLI's recommendation that a total balance sheet approach that applies scalars to both available *and* required capital should be utilized.

F. Uniform Application of BBA to Supervised Insurers

The ANPR sets forth potential capital standards for two classes of insurance groups: those that control an insured depository institution and those that have been designated as systemically important financial institutions (Insurance SIFIs) by the Financial Stability Oversight Council. Mutual of Omaha joins the comments of our trades in support of the notion that it would be appropriate for the Board to apply the BBA to all supervised insurance groups.

We join the ACLI in its assertion that the CA proposed in the ANPR is presented at a very conceptual level and lacks many details that will be important to understand before fully assessing its feasibility. Nonetheless, should the Federal Reserve adopt a CA based on GAAP accounting for those insurers designated as SIFIs, we believe certain modifications would be essential to appropriately tailor any CA to the business and risks of insurance groups, particularly with regard to insurance risks, corporate bonds, and separate accounts.

III. Conclusion

Our company, and many of the companies currently subject to the ANPR, provides income, asset protection and growth to millions of Americans. We operate principally through the business of insurance and complementary asset management and brokerage services. Generally, our thrift operations are a smaller component of our overall activities and serve to support and supplement our primary business. The thrift provides valuable services to policyholders, agents, and customers, and certainty in the application of our capital requirements is paramount to continuing to provide these services.

While keeping in mind that crucial details of a BBA-based framework must still be developed, we believe it offers a simple, uniform, and effective approach to account for the various activities and risks of the different legal entities within a covered insurance group. It satisfies the Congressional mandate to tailor capital requirements to the business of insurance, and achieves the over-arching objective of a group-wide regulatory standard, but does so by leveraging, rather than dismissing, existing standards that are already tailored and calibrated to the activities and risks of the particular entity.

Thank you for consideration of our comments. If it would be helpful to discuss this matter further, please feel free to contact me.

Respectfully submitted,

David A. Diamond
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Chief Financial Officer & Treasurer
Mutual of Omaha