

June 10, 2011

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, DC 20551

Re: Notice of Proposed Rulemaking Regarding "Resolution Plans and Credit Exposure Reports Required"

RIN 3064-AD77

Dear Ms. Johnson:

Members of the Property and Casualty Insurers Coalition (the "Coalition")¹ hereby submit the following comments in response to the rule proposed jointly by the Board of Governors of the Federal Reserve System (the "Board") and the Federal Deposit Insurance Corporation (the "Corporation") that would implement the requirements in Section 165(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "DFA")("Section 165(d)"). Section 165(d) requires a nonbank financial company that is being supervised by the Board, as a result having been designated by the Financial Services Oversight Council (the "Council"), pursuant to Section 113 of the DFA ("Section 113"), as a company whose failure could "pose a threat to the financial stability of the United States" to periodically submit to the Board, the Corporation and the Council, such company's plan for its rapid and orderly resolution and a report on the nature and extent of the company's credit exposures.

We would like to respectfully point out that in our view traditional property and casualty ("P&C") insurance operations do not "pose a threat to the financial stability of the United States" and do not warrant further consideration for designation under Section 113. We emphasize the explicit statutory standard contained in Section 113 because it is a critical initial test or threshold that helps focus the mission of the Council. The Coalition set forth the reasons for this view in comments we previously submitted to the Council in response to the Council's proposed rule regarding the manner in which it will make designations under Section 113. With the singular exception of American International Group, P&C insurers were neither the cause of the recent financial crisis nor did P&C insurers experience material financial distress due to the crisis. In the case of AIG, its non-insurance operations created systemic risk, not its traditional P&C insurance operations. P&C insurers, unlike many other financial companies, bear none of the markers of systemic importance (*e.g.*, unregulated interconnected activities, high leverage, susceptibility to runs, etc.). The operational and regulatory models of P&C insurers are fundamentally different from those of many other kinds of financial institutions.

¹ The members of the Coalition which are submitting these are comments are the following P&C insurers: ACE Group, Allstate Insurance Company, CNA Group, Liberty Mutual Group, and United Services Automobile Association.

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Nevertheless, in the absence at this time of any final regulation excluding traditional P&C insurers from the scope of Section 113, we believe we must explain how the proposed rule that is the subject of this proposed rulemaking fails to reflect or accommodate the manner in which the resolution would occur of any company which is primarily a P&C insurer. In our view, this failure provides further, indirect support for the comments the Coalition previously submitted to the Council.

Laws that have been enacted in each State expressly authorize a P&C insurer's domestic insurance supervisor to seek a court order placing the insurer into receivership for the purpose of rehabilitating or liquidating the insurer when its financial condition becomes hazardous. A comprehensive regime under the laws of each State applies to monitor the financial conditions of P&C insurers, and mechanisms exist in each State for state insurance supervisors to intervene if financial conditions at a P&C insurer deteriorate. In a liquidation the claims against the insurer are paid in accordance with a statutorily prescribed priority, and the system of state insurance guaranty funds is activated to protect policyholders against the risk that claims will go unpaid. Furthermore, insurance supervisors in each state have the authority to act well in advance of the institution of a formal receivership by placing an insurer under administrative supervision and by ordering the insurer to make fundamental changes in the way it conducts its business. For example, the insurance supervisor may direct the insurer to take steps to reduce its liabilities or the volume of its business, to increase its capital and surplus, and to discontinue certain investment practices, among other measures.

Rather than taking these state regulatory provisions into account, the proposed rule would create a parallel, duplicative, and contradictory resolution process for insurers. One way in which the proposed rule focuses attention on inapplicable processes is its frequent references to the United States Bankruptcy Code, which does not apply to insurance companies. As a consequence, matters which might sensibly be used to structure a resolution plan for non-insurers simply are of no relevance to insurers. The footnote in the analysis of the proposed definitions stating that "if an entity is subject to an insolvency regime other than the Bankruptcy Code, the analysis should be in reference to that applicable regime" is not adequate as a guideline for insurers to follow in constructing a resolution plan. The factors that may be important in a bankruptcy proceeding are not necessarily of equal significance in a state insurance insolvency proceeding. Conversely, the factors that would be relevant to a state insurance insolvency proceeding are not included or even hinted at in the proposed rule. The proposed rule should, therefore, be amended to either (i) exclude insurers entirely except those that may be found to be affiliated with substantial and risky non-insurance operations or (ii) if the proposed rule continues to apply to any systemically designated insurers, then it should be clarified (a) to cover, as we think intended, only the non-insurance operations of an insurer's affiliates (*i.e.*, no operations within its insurance subsidiaries) and (b) to provide a more explicit reflection of state insurance insolvency procedures.

Thank you for your consideration of the Coalition's comments.

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For further information regarding the Coalition and these comments, please contact:

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