October 17, 2012

The Honorable Ben S. Bernanke
Chairman
Board of Governors of the Federal Reserve System
20th Street & Constitution Ave., N.W.
Washington, D.C. 20551

The Honorable Thomas J. Curry
Comptroller
Department of the Treasury
Office of the Comptroller of the Currency
250 E Street, S.W.
Washington, D.C. 20219

The Honorable Martin J. Gruenberg
Acting Chairman
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20551

Dear Chairman Bernanke, Acting Chairman Gruenberg, and Comptroller Curry:

We are writing regarding your agencies' implementation of new rules for Savings & Loan Holding Companies (SLHCs), including the Basel III international standards for capital and liquidity; rules regarding capital levels for holding companies; leverage and risk-based capital requirements; and transfer of supervision of SLHCs under the Home Owners Loan Act. These standards will apply to depository institution holding companies predominantly engaged in the business of insurance or any insurer that may be designated systemically important. There is substantial bipartisan consensus that robust capital standards properly applied to financial companies will help protect the American economy and our citizens from future financial crises. However, we are concerned that applying a bank-focused regime to insurance companies could undermine prudential supervision and unintentionally harm insurance policyholders, savers, and retirees.

While robust capital standards are a critical component in any prudential supervisory regime, applying a bank-centric regulatory capital regime to insurance entities creates serious challenges for insurance companies, and potentially their policyholders. We are concerned that some of the proposed rules, as drafted, do not reflect the distinct nature of the insurance business or take into consideration the state risk-based capital system that was specifically developed for the insurance industry and refined over the past 20 years.

As you know, insurance companies are regulated by state insurance agencies where insurance companies are domiciled or are licensed to sell insurance. While we recognize that the Dodd-Frank Act directs the federal banking agencies to establish minimum capital standards on a consolidated basis, Congress did not intend for federal regulators to discard the state risk-based capital system in favor of a banking capital regime. In fact, the Committee Report that accompanied the Senate-passed *Restoring American Financial Stability Act* provided direction to the federal banking agencies to consider insurance companies' existing regulatory requirements, accounting treatment, and unique capital structures in developing capital requirements for insurance entities. Any final regulations should reflect the will of Congress to respect the distinctions between insurance and banking.

Applying a bank-centric capital system to insurance-based holding companies raises significant concerns. Any regulatory regime must acknowledge how insurance companies rely upon long-term assets to fund long-term liabilities. By contrast, banks have a range of investments and use a variety of bonds, equity, and short-term debt to fund their operations. Asset-liability matching is fundamental to the insurance business, and any regulatory capital regime should recognize that applying a bank-centric capital regime to the insurance industry would fundamentally alter the nature of the business.

Finally, we are concerned with the process and timeline of the proposed rules. There are various effective dates for different capital regulations – ranging from 2015 to 2018 for the Section 171 Collins Amendment and Basel III, respectively. We urge you to provide insurance companies with an adequate transition period, fitting somewhere between these effective dates, to comply with any new capital rules. This will support your supervisory goals by minimizing disruption to insurance entities and their policyholders.

We appreciate your diligent efforts implementing new enhanced capital rules. Capital will play an important role in preventing or mitigating future financial crises. However, any new rules should reflect congressional intent, incorporate the state risk-based capital system, and appropriately accommodate the insurance business model. We look forward to working with you to ensure that any final rules provide for a robust capital regime to ensure the solvency of financial institutions, including insurance companies.

Sincerely,

Sherrod Brown

Mike Johanns

Dick Durbin

Mike Crapo

Chuck Schumer

Pat Toomey

Kay R. Hagan

Robert Menendez Jr.

Jon Tester

Mark R Warner

Jeffrey A. Merkley

Mark F. Begich

Tom Harkin

Richard Blumenthal

E. Benjamin Nelson

Jerry Moran

Roy Blunt

Kay Bailey Hutchison

Chuck Grassley

Johnny Isakson

Saxby Chambliss

Pat Roberts

Mark Udall

Max Baucus