

**Spencer M. Houldin**

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**From:** Charles Symington [Charles.Symington@iiaba.net]  
**Sent:** Wednesday, October 07, 2009 10:49 AM  
**To:** Executive Committee; Govt Affairs Committee  
**Cc:** Bob Rusbult; Tom Koonce; John Prible; Joe Wall; Jen McPhillips; Wes Bissett; Margarita Tapia  
**Subject:** RE: Memo: Big I Testifies at House FS Committee Hearing on National Insurance Office

One more article on the hearing below quoting Spencer. We certainly had great press coverage for the Big I. I will now refrain from sending you additional emails on the hearing and let you get back to your day jobs!

Thanks,  
Charles

## States, Industry Worried Federal Insurance Office Would Regulate

October 7, 2009

State insurance regulators, insurance carriers and independent insurance agents are concerned that redrafted legislation to create a federal insurance office makes the new agency too much like a regulator.

Testifying before the House Financial Services Committee on the proposal to create an Office of National Insurance (ONI), the National Association of Insurance Commissioners (NAIC) told Congress that a proposed federal insurance office should be a tool to connect the state regulatory system with the federal regulatory system, and not be an instrument to diminish state insurance regulation.

"A formal federal interface is appropriate, but the current ONI proposal strays too far from past legislation that included important safeguards against preemption of state laws and consumer protections," said Therese M. Vaughan, Ph.D., NAIC Chief Executive Officer.

Vaughan cautioned that while the proposed reform would increase insurance knowledge and expertise at the federal level and enhance international cooperation on regulatory matters, it could also encroach upon state insurance regulatory authority, particularly in the area of federal preemption of state law due to international agreements.

"Any binding discussion at the international level should respect and reinforce the states' authority to regulate insurer solvency and protect insurance consumers, and therefore should be limited to agreements of regulatory equivalence or mutual recognition," Vaughan testified.

"It is critical that the federal government have access to insurance information in order to ensure that the United States is competitive with its foreign counterparts in global negotiations," said Roger Sevigny, NAIC President and New Hampshire Insurance Commissioner. "At the same time, any state-federal regulatory cooperation agreement must leverage the successful state insurance regulatory system and not preempt state law except in extremely narrow circumstances."

The National Association of Mutual Insurance Companies (NAMIC) expressed similar concerns.

"Any measure that could be used to set different standards for different companies runs the risk of distorting the

market and ultimately harming consumers," said Jimi Grande, senior vice president of federal affairs for NAMIC.

According to Grande, the office that would be created under the latest draft would have broader authority to reach agreements with foreign insurance companies that pre-empt state laws and regulations, potentially allowing those companies to operate under different standards than domestic insurance companies.

Grand said the original bill was better than the redraft at providing the federal government with the information it needs without affecting the market or establishing a de facto federal insurance regulator.

In addition to pre-emption, Grande also expressed concern regarding the broad authority the draft would create for data collection and the potential for a perceived mandate for the office to name an insurance company as major risk to the financial system.

"We applaud Rep. Kanjorski for stating his intent that the proposed office not be regulatory in nature," Grande said. "But like one of the original bill's sponsors, Rep. Judy Biggert, R-Ill., we're concerned that this is moving away from a bipartisan approach to an over-reaching regulatory office disguised as an informational depository. The original legislation enjoyed broad support from lawmakers and the industry, while support for the new office draft seems confined to those who favor federal regulation of insurance."

Spencer M. Houldin, an independent insurance agent from Connecticut, who is chairman of the Independent Insurance Agents and Brokers of America (IIABA), told Congress that any insurance information office should be "designed carefully and with the proper safeguards and not 'set the stage' for federal insurance regulation."

Houldin said that IIABA would oppose any "overt or subtle efforts to make the insurance office look more like a regulatory body or to set it up to become a forerunner to federal regulation."

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**From:** Charles Symington

**Sent:** Wednesday, October 07, 2009 10:43 AM

**To:** Executive Committee; Govt Affairs Committee

**Cc:** Bob Rusbult; Tom Koonce; John Prible; Joe Wall; Jen McPhillips; Wes Bissett; Margarita Tapia

**Subject:** RE: Memo: Big I Testifies at House FS Committee Hearing on National Insurance Office

As a follow-up to the hearing memo, please find below two articles covering the hearing: one from Congress Daily with a reference to the Big I expressing concerns with the new proposal and the other from Bestwire quoting Spencer on the concept of an informational office. As we said yesterday, Spencer did an excellent job.

Thanks,  
Charles

**CONGRESS DAILY  
FINANCE**

## Kanjorski's Draft Revisions Might Cost Him Some Support

*Wednesday, Oct. 7, 2009  
by Bill Swindell*

The insurance industry demonstrated its propensity for infighting Tuesday, arguing over a proposal to create an office of insurance within the Treasury Department as part of an effort to revamp the nation's financial regulatory structure.

The wrangling occurred during a hearing over a revised draft by House Financial Services Capital Markets Subcommittee Chairman **Paul Kanjorski**, D-Pa., to establish the office.

Kanjorski originally proposed legislation to create an Office of Insurance Information that would establish federal policy on international insurance matters to ensure they are consistent with state laws as well as advise the secretary on major domestic and international insurance issues. The bill had the support of almost all insurance groups.

But Kanjorski recently revised his draft, and some changes unnerved insurance groups who fear it will lead to a federal insurance charter to compete with the state-based system.

The changes include renaming the office as the Federal Insurance Office and removing safeguards from the bill that made it more difficult to pre-empt state laws, such as providing public notice requirements, allowing state regulators a greater opportunity to argue their side in a dispute and giving Congress the opportunity to disapprove of its policies. Additionally, groups are also concerned the draft did not rule out that the federal office would not have regulatory authority.

"We are concerned about the breadth and scope and possibility for mission creep," said Janice Abraham, who testified on behalf of the Property Casualty Insurers Association of America.

Other groups expressing concern were **the Independent Insurance Agents & Brokers of America** and the National Association of Insurance Commissioners.

Large, multinational carriers are arguing for creation of a federal regulator for insurance.

Kanjorski noted that there was "a fundamental expansion" of the bill since he introduced it this year, in some cases at the urging of the Treasury Department. In its proposal, Treasury called for the office to have subpoena powers -- a provision rejected by Kanjorski.

"It is not intended to do anything that is regulatory in nature ... I think that should be made clear to everyone," Kanjorski said.

Rep. **Judy Biggert**, R-Ill., said she was concerned about the changes, noting that she had been a co-sponsor of the original Kanjorski bill, which was able to pick up support from almost all sides of the industry. "I'm afraid that this new draft moves away from what I thought was a really great bipartisan bill," Biggert said.

On another issue, groups representing private equity firms asked Kanjorski to show some flexibility in requiring them to register as investment advisers with the SEC. The Kanjorski draft would require hedge funds and private equity firms to register with the agency, exempting only funds that do not meet a \$30 million threshold.

The draft would exempt venture capital funds from the requirement and instead subjects them to separate rules the SEC will establish for reporting and recordkeeping.

The Kanjorski draft would authorize the SEC to define what constitutes a "venture capital fund" and establish how such firms will comply with the reporting requirements. Kanjorski said the SEC could likely obtain financial information through a "Form D" disclosure document that most venture capital funds already file with the SEC during or shortly after their public offerings.

Other groups argued for greater relief akin to the venture capital firms.

"I would suggest a simpler and perhaps even fairer approach would be to raise the threshold ...

above which registration is required from \$30 million to a level that Congress believes is appropriate," said Douglas Lowenstein, president of the Private Equity Council.

Kanjorski said he is amenable to revising the size of the funds that would be under the registration requirement. "We are going to look at size, whether it is \$30 million or \$100 million, it is open to discussion," Kanjorski said.

As far as schedule, the House Financial Services Committee is slated to mark up legislation next week that would place greater regulations on the derivatives market, as well as another bill to create a new Consumer Financial Protection Agency. House Financial Services Chairman **Barney Frank** is tentatively trying to mark up the Kanjorski draft on Oct. 21.




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## Federal Insurance Office Sparks Congressional, Industry Debate



WASHINGTON October 06 (BestWire) — At a hearing on the formation of a federal office for insurance issues, it wasn't just the members of Congress who were in disagreement — many of those representing major insurance industry associations also argued very different approaches for the country's establishment of a consistent insurance voice.

An Oct. 6 hearing of the full House Financial Services Committee had scheduled one panel to just talk about the idea of a national insurance office. The bill they discussed belonged to Rep. Paul Kanjorski, D-Pa. — a revised version of his original legislation for an office of insurance information, this one reflecting language suggested by the Obama Administration.

**Spencer Houldin, the president of Ericson Insurance Advisors who represented the Independent Insurance Agents & Brokers of America, said the bill has his group's "conditional support," as long as it doesn't take any further steps toward an option federal charter. "We do need to make sure we don't have mission creep." Given the chance for a federal charter, companies "would select the path of least resistance," he said.**

He was echoed by Therese Vaughan, chief executive officer of the National Association of Insurance Commissioners, who argued that state regulators have "a proven track record of stability," and any changes to the system should merely bolster that existing success. "We have a system that works."

But others, such as Stephen Zielezienski, senior vice president and counsel for the American Insurance Association, argued for it, even saying that it needs a stronger leader, such as a presidentially appointed director.

And Dennis Herchel, an assistant vice president of the Massachusetts Mutual Life Insurance Co. who spoke for the American Council of Life Insurers, said it's "imperative" that Congress establish a federal office, arguing that it be elevated in status beyond the current proposal. "The events of the last 12 months have only heightened the need for this office."

Kanjorski, who is chairman of the subcommittee that oversees the insurance industry, tried to calm fears that this is a step toward federal regulation for insurance. "It's not intended to do anything that's regulatory in nature."

The one point of the proposal most found agreement on was the office's task of representing the United

States in negotiations with foreign insurance regulators. However, where the agreement fell apart was in how far the office should go in preempting state regulatory systems to ensure those international agreements are met with consistency.

Arguing in favor of a federal voice for international negotiation, Zielezienski said, "Every day we don't sit at the table is another day lost."

While the group has no official stance on the insurance office, the Property Casualty Insurers Association of America has "strong concerns" about some of the language in the current legislative draft, said Janice Abraham, who is president and CEO of United Educators Insurance and spoke for PCI. One major concern for the association, she said, is the information collection the office would be entitled to do. She said there are "virtually no limits in this bill on the types and volume of information. ... The scope is so broad, we don't know what we would be asked for."

Rep. David Scott, D-Ga., made one point about the proposal that has added confusion to the debate: "There are a variety of different terminologies that we have been throwing around about what this is," referring to the several names that have been proposed for the office, including the Office of National Insurance, Office of Insurance Information and Federal Insurance Office. He argued that the discussion should find a focus.

PCI's Abraham said, "We think there are good reasons to have a national insurance office. We understand why this is needed." But she pointed out that the industry shouldn't be blamed for the economic troubles. "We didn't cause the current financial crisis."

Kanjorski joked about the lack of agreement after the industry representatives' opening testimony. "To summarize the opening statements: 50% of you love it, and 50% of you hate it." He said he and the committee are serious about taking industry suggestions. But he told them not to ask that it be dumbed down, adding — tongue in cheek — "I think it's already dumb enough."

(Jesse A. Hamilton, Washington bureau manager: Jesse.Hamilton@ambest.com) BN-NJ-10-06-2009  
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**From:** Charles Symington  
**Sent:** Tuesday, October 06, 2009 5:36 PM  
**To:** Executive Committee; Govt Affairs Committee  
**Cc:** Bob Rusboldt; Tom Koonce; John Prible; Joe Wall; Jen McPhillips; Wes Bissett; Margarita Tapia  
**Subject:** Memo: Big I Testifies at House FS Committee Hearing on National Insurance Office  
**Importance:** High

**TO:** Executive Committee  
 Government Affairs Committee  
**FR:** Charles Symington, SVP Government Affairs  
 Tom Koonce, AVP Federal Government Affairs  
 John Prible, AVP Federal Government Affairs  
 Joe Wall, Senior Director Federal Government Affairs  
**DATE:** October 6, 2009  
**RE:** House Financial Services Hearing on "Capital Markets Regulatory Reform: Strengthening Investor Protection, Enhancing Oversight of Private Pools of Capital, and Creating a National Insurance Office"

Earlier today, IIABA Government Affairs Committee Chairman Spencer Houldin testified on the third of three panels on Capital Markets Regulatory Reform. The third panel was specifically on the issue of creating a national insurance office. Here are all of the witnesses who testified on the third panel:

- Ms. Janice M. Abraham, President and Chief Executive Officer, United Educators Insurance, on behalf of the Property Casualty Insurers Association of America
- Mr. David B. Atkinson, Executive Vice President and Vice Chairman, RGA Reinsurance Company, on behalf of the Reinsurance Association of America
- Mr. Dennis S. Herchel, Assistant Vice President & Counsel, Massachusetts Mutual Life Insurance Company, on behalf of the American Council of Life Insurers
- Mr. Spencer M. Houldin, President, Ericson Insurance Advisors, on behalf of the Independent Insurance Agents & Brokers of America
- Ms. Therese Vaughan, Chief Executive Officer, National Association of Insurance Commissioners
- Mr. J. Stephen Zielezienski, Senior Vice President & General Counsel, American Insurance Association

The hearing was held on a day in which the first votes of the week in the House were not scheduled for later that day, so member attendance was smaller than usual. Members who attended for at least a part of the hearing included Chairman Barney Frank (D-MA), Ranking Member Spencer Bachus (R-AL), Capital Markets Subcommittee Chairman Paul Kanjorski (D-PA), Capital Markets Subcommittee Ranking Member Scott Garrett (R-NJ), Reps. Dennis Moore (D-KS), David Scott (D-GA), Brad Miller, (D-NC), Emanuel Cleaver (D-MO), Melissa Bean (D-IL), Ed Royce (R-CA), Judy Biggert (R-IL), Kevin McCarthy (R-CA), Andre Carson (D-IN), Don Manzullo (R-IL), Jackie Speier (D-CA), and Shelley Moore Capito (R-WV).

Late last week, Chairman Kanjorski released a “Discussion Draft” for what is now termed the Federal Insurance Office (FIO), and the witnesses were all asked to comment on this draft. This draft largely tracks the Administration’s proposal to create a National Insurance Office, but differs in many ways from Chairman Kanjorski’s legislation to establish an Office of Insurance Information, which IIABA has supported in the past. We detailed our serious concerns with this discussion draft in Spencer’s written testimony, which is attached.

In his opening statement, Chairman Kanjorski did say that he is open to making changes to the draft bill. Speaking specifically on the FIO, Chairman Kanjorski said that the “credit meltdown highlighted the lack of federal expertise in the insurance market.” In his opening statement, Rep. Royce said that because of our “fragmented regime of insurance regulation, it is clear we’re lagging behind the rest of the world.” He also said that creating an FIO “would be a beneficial first step, but I’m afraid it wouldn’t go far enough...we should consider establishing a world-class regulatory alternative.” Rep. Bean hit on many of the same themes and mentioned the failure of AIG as evidence that there has “never been a greater need for federal insurance oversight” She added that there is “general agreement there should be a federal role for insurance. Rep. Bean also said that the, “creation of a national insurance office is helpful...but it falls short.” Rep. Biggert, one of the original cosponsors of the OII bill, spoke on the need for the creation of such an office but raised concerns with the new bill.

In his testimony, Spencer spoke on the need for reforming the state system, but said that the financial services crisis has highlighted and “reinforces the pitfalls and serious deficiencies associated with creating an optional federal insurance regulatory system.” On the issue of creating a federal insurance office, Spencer said that “we recognize the benefits that can be achieved by establishing a non-regulatory body at the federal level that is able to review industry data, advise federal officials on critical issues, and coordinate efforts on international insurance matters.” He added, “It is imperative, however, that any statute authorizing the establishment of an insurance information office be designed carefully and with the proper safeguards and not ‘set the stage’ for federal insurance regulation.” He emphasized this by stating that “any overt or subtle efforts to make the insurance office look more like a regulatory body or to set it up to become a forerunner to federal regulation...would force IIABA to vigorously oppose any such proposal.” On an FIO, Spencer said that IIABA has “significant concerns with several

of the revisions unveiled in the discussion draft circulated by the Committee late last week.” He said that IIABA hopes that the Committee will adopt legislation that closely resembles the original OII legislation and not the new FIO discussion draft. Again, IIABA’s specific concerns with the discussion draft are detailed in Spencer’s testimony, which is attached.

In her testimony on behalf of PCI, Ms. Abraham stated that “PCI supports responsible regulatory reforms that reflect principles of good insurance regulation.” She added, “While we have not taken a position on proposals to create an office of insurance information, our members have concerns and questions about a greatly expanded federal insurance oversight office.” Ms. Vaughan, testifying for the NAIC echoed many of these concerns. Ms. Vaughan stated that, “The draft Federal Insurance Office (FIO) Act...goes further than the OII bills in terms of its use of federal preemption, and provides a greatly reduced role for state insurance regulators. Because of these concerns, Ms. Vaughan said that they “have submitted legislative language to help bring the Administration’s proposal more closely in line with Chairman Kanjorski’s original Office of Insurance Information bills.”

The ACLI’s witness, Mr. Herchel, stated that ACLI “supports the FIO for many of the same reasons we have supported past proposals to create the Office of Insurance Information, both this year and in 2008.” He added, “Then as now, we believe the FIO would be enormously beneficial to Congress as it considers issues that are vitally important to our business; would facilitate the handling of international insurance matters; and would provide a means for effectively involving the insurance industry as national policy decisions are made affecting U.S. financial institutions.”

Testifying on behalf of AIA, Mr. Zielezienski mentioned how they have “long advocated a national regulatory alternative to the state-by-state framework of supervision that exists today. He added, “While the Discussion Draft does not create a national functional insurance regulator, the Federal Insurance Office, if structured correctly, would represent a substantial contribution toward broadening and deepening our nation’s understanding of the critical role of insurance in our financial system.” RAA’s witness, Mr. Atkinson, spoke on the “international aspects of the insurance and reinsurance business” and how this “require[s] federal involvement to address the needs of the U.S. market and to assist and support U.S. companies doing business abroad.” He said that, “The RAA strongly supports the recently-released discussion draft of the Federal Insurance Office Act of 2009.”

During the question and answer period, Chairman Kanjorski said that this office is “not intended to do anything that is regulatory in nature.” He spoke on the AIG failure and said that while it wasn’t the insurance part that went awry, insurance almost included in the proposed actions of the NY insurance regulator, which would have precipitated the largest insurance failure in our history. Ms. Vaughan responded that this probably would not have happened because any actions by the New York regulator would have had to go through the approval process in other states.

Rep. Garrett asked what other information would go to this new federal insurance office that isn’t going to the NAIC already, to which Ms. Vaughan responded that this was a good question for Treasury as she could not imagine what else would be requested. Rep. Scott spoke on how he hoped this insurance office is not a precursor to a federal charter. He said that we “ought to be sure we’re moving down a road fairly clearly mapped out.” He asked Spencer on how IIABA proposed modernizing the state system for the consumer, to which Spencer brought up IIABA’s support for targeted reform such as NARAB II, the surplus lines bill and the original OII.

Ranking Member Bachus asked each witness about state regulation and whether it failed. Mr. Atkinson responded that he wouldn’t say there were failures but inefficiencies. Rep. Bachus pressed on, asking whether national regulation in banking had brought down costs to consumers and whether national regulation of financial products offered the types of protections it should have. These questions were met by complete silence from the pro-federal insurance charter witnesses. Rep. Bachus concluded by saying, “To me, clearly,

states have done a much better job of regulating insurance than the federal government did regulating banking and securities.” He further added that he’s afraid the current draft of the FIO is an overreach and that last year’s bill is better. He did an excellent job at the hearing.

As they do in all of these types of insurance hearings, Reps. Bean and Royce spoke on their proposal to create an optional federal insurance regulator. Rep. Royce said that one of the biggest failures of AIG was in its securities lending division, but he mainly spoke on the competitive disadvantage U.S. insurance companies faced internationally and how we need a “world-class insurance regulator” (a phrase often used by Rep. Royce). Rep. Bean spoke on a study on the inefficiencies of the state system to the tune of \$13 billion that is passed on to consumers. She asked Ms. Vaughan what actions the NAIC has taken to bring about uniformity Ms. Vaughan said she would provide all examples in writing but specifically mentioned the NAIC’s proposal to modernize reinsurance regulation. She also took issue with Rep. Bean’s quote from Treasury that called state regulation fragmented. She said she disagreed with Treasury that it is highly fragmented. Rep. Bean asked some of the other witnesses whether they had confidence that after over 140 years of trying the NAIC could bring about uniformity. Mr. Herchel said it would be a tough road for them, Mr. Atkinson said it was hard to get unanimous agreement and Mr. Zielezienski said that it was not the fault of regulators but it’s hard to navigate 50 different bodies.

Rep. Biggert ended the hearing by asking each witness what concerns they had with the new FIO discussion draft. Spencer said that IIABA has concerns with definition of insurer but most importantly is concerned that this new office could overstep its powers to more regulatory and supervisory authority.

While old battle lines were predictably discussed at this hearing, it did shed some light on the diverging opinions of the various witnesses on the new discussion draft proposal for a federal insurance office. Spencer did a great job of expressing our concerns today, and we will follow-up with Committee staff on our specific concerns and recommendations in the coming weeks, especially since Chairman Kanjorski said that he is open to making changes to this bill. We will of course keep you updated on this legislation and other issues related to the overall financial services regulatory reform efforts.