

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS (NCOIL)

Proposed Resolution Regarding the States' Response to International Proposals for Insurer Solvency Regulation and a Global Insurance Capital Standard (ICS)

To be considered by the NCOIL International Issues Task Force on July 10, 2014. Co-sponsored by Sen. Neil Breslin (NY) for discussion and by Sen. Travis Holdman (IN)

WHEREAS, the International Association of Insurance Supervisors (IAIS) adopted Insurance Core Principles (ICPs) intended to establish global insurance regulatory standards and seeks to impose those standards on all jurisdictions, and

WHEREAS, the IAIS and the G-20 finance ministers through the Financial Stability Board (FSB) are attempting to leverage adoption of these new requirements through "peer reviews" of jurisdictions' solvency regulation regimes conducted by the International Monetary Fund and the FSB itself, and

WHEREAS, the IAIS and the FSB are private associations without legal authority and lacking in accountability to elected legislatures, and

WHEREAS, development of international insurance regulatory standards are being conducted in a manner that does not provide the level of opportunity for open public comment and deliberation that are due process hallmarks of law and rulemaking in the United States, and

WHEREAS, some European-styled global standards for solvency regulation and accounting conflict with and undermine existing regulation and standards within the United States and the individual states, and

WHEREAS, the National Association of Insurance Commissioners (NAIC) Model Holding Company Act allows state insurance regulators to participate in and even lead global supervisory colleges without surrendering the domestic regulator's authority, and

WHEREAS, the FSB has directed the IAIS to develop a single, quantitative global Insurance Capital Standard (ICS) for insurance groups, similar to capital requirements for banks and are based on the inaccurate premise that capital is fungible across international borders, and

WHEREAS, a group capital requirement violates the basic construct of the issuance of an insurance contract by an individual legal entity and history suggests that the aforementioned premise is both unfounded and not transferable to insurance companies in the United States , and

WHEREAS, the U.S. state insurance regulators may find that the IAIS requirements, once identified, are misplaced, unnecessary and duplicative, and

WHEREAS, a one-size-fits-all global ICS fails to adequately recognize jurisdictional differences such as different accounting standards throughout the world, specifically in the United States,

the effective and state-required use of Statutory Accounting Principles, or significant and complex differences in risk and capital needs from one insurance group to another, and

WHEREAS, the IAIS appears to favor European approaches and methodologies, most of which do not fit well in the US state-based system, and

WHEREAS, unlike the European approach to solvency regulation, the United States system of solvency regulation and insurance regulatory principles are focused on policyholder protection, including guaranty funds, not on investors, creditors or other stakeholders.

THEREFORE, BE IT RESOLVED that the National Conference of Insurance Legislators calls upon the NAIC, the U.S. representatives to the Financial Stability Board (FSB), and the Federal Insurance Office (FIO) to oppose the creation of any additional set of international solvency standards, including a global ICS, that fails to adequately and appropriately accommodate the proven US approach to insurer solvency regulation;

AND, BE IT RESOLVED that the National Conference of Insurance Legislators opposes the Fair Value measurements and market consistent valuation methodologies favored by the IAIS and encourages the NAIC, the FSB, and the FIO to likewise oppose;

AND, BE IT ALSO RESOLVED that the National Conference of Insurance Legislators encourages all state legislatures to support our state-based system of insurance regulation by enacting resolutions similar to this one;

AND, BE IT ALSO RESOLVED the National Conference of Insurance Legislators urges the states' governors and Congressional delegations to write letters and to otherwise communicate these concerns to US representatives on the FSB, including the Secretary of the Treasury, the chair of the Board of Directors of the Federal Reserve and the chair of the Securities and Exchange Commission;

AND, BE IT FURTHER RESOLVED that a copy of this Resolution be sent to each state legislature, each state insurance regulator, the NAIC, the FIO, the FSB, the IAIS, the US Department of the Treasury, the Board of Governors of the Federal Reserve System, the SEC, and to members of Congress.