



January 10, 2025

Ann E. Misback
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Re: Study and Report to Congress on the Impact on Consumers and Markets in the United States of a Final International Insurance Capital Standard (Docket No. OP-1845)

Dear Ms. Misback:

We appreciate the opportunity to comment on the report outlining potential regulations for international active insurance groups (IAIGs).¹ It is our strong belief that the International Association of Insurance Supervisors (IAIS) is overstepping its authority by reviewing potential capital standards that would apply to U.S.-based insurers. The IAIS maintains no supranational authority to regulate insurers in the U.S., yet it is able to use the National Association of Insurance Commissioners (NAIC) and Federal Insurance Office (FIO), which are IAIS members, to influence U.S. insurance regulation.

Insurers in the U.S. are primarily regulated at the state level. The NAIC is a nonprofit entity that develops model policies that states may automatically adopt. Some scholars oppose auto-adoption of nongovernmental organization (NGO) policies. One recent report recommends that state policymakers prohibit auto-adoption of any NGO-drafted rules that do not go through a formal rulemaking process.² At the same time, the NAIC uses its accreditation program to essentially compel states to adopt model policies.³ Coordination between the IAIS and NAIC can easily translate into binding rules that could negatively impact U.S. insurers and taxpayers.

The NAIC creates capital standards requiring insurers to hold a certain amount of equity “in proportion to its risk.”⁴ A risk-based capital (RBC) formula is applied to insurers to analyze solvency requirements. Along this vein, the group capital calculation (GCC) is used as a

¹ 89 FR 91750.

² Greg R. Lawson, [Beware the Trojan Horse of Rulemaking Nongovernment Organizations](#) (2024)

³ <https://content.naic.org/sites/default/files/government-affairs-brief-accreditation-program.pdf>.

⁴ <https://content.naic.org/insurance-topics/risk-based-capital#:~:text=The%20RBC%20requirement%20is%20a,in%20proportion%20to%20its%20risk.>

“supervisory tool” to measure capital adequacy for a group of insurers.⁵ The report to Congress claims that the states intend to adopt the Aggregation Method (AM) instead of the insurance capital standard (ICS) developed by the IAIS. The AM is supposed to be implemented via the GCC assuming the IAIS determines that the AM results in “comparable supervisory outcomes to the ICS.” The IAIS is too influential in its evaluations of U.S. insurance regulations. The AM comparability assessment was recently approved by the IAIS at the annual conference in Cape Town, South Africa.⁶

The fact that the AM must be approved by the IAIS before state regulators may implement it contravenes U.S. law. The principles for the AM are deliberated and conformed by the IAIS so that it is “substantially the same” as the international standard.⁷ Pursuant to Section 211(c) of the bipartisan *Economic Growth Regulatory Relief and Consumer Protection Act*, the Federal Reserve (Fed), FIO, and NAIC should all provide testimony to Congress before agreeing to any policy proposals developed by or along with the IAIS.⁸ The section clearly shows Congress intended for regulators to provide annual reports and testimony outlining discussions and deliberations of international insurance regulatory frameworks and their effects on consumers and the U.S. insurance market.⁹ Congress also intended for U.S. regulators to explain their efforts “to increase transparency” at the IAIS.¹⁰ The NAIC or any state insurance regulator should not be able to officially adopt an international capital standard in the U.S. until elected representatives in Congress are apprised of the all the details of discussions in and around the AM comparability assessment, or any other international regulatory framework. As members of the IAIS, the Fed, FIO, and NAIC should all be required to articulate to Congress the details of IAIS proposals and its potential effects on the U.S. populace.

Additionally, the NAIC and state insurance regulators should not be allowed to implement any new capital surcharges until the comment period for this report is complete, and the relevant regulators have taken the time to evaluate comments. The statute requires a comment period of “60 days after the date on which the report is submitted.”¹¹ The comment period ends on January 12th, but the IAIS already met to approve the AM standard

⁵ <https://www.federalreserve.gov/publications/files/ics-impact-report-202411.pdf>, pg. 7.

⁶ <https://content.naic.org/article/naic-applauds-international-agreement-us-aggregation-method-comparability>.

⁷ <https://www.iaisweb.org/uploads/2023/03/final-aggregation-method-comparability-assessment-criteria.pdf>.

⁸ P.L. 115-174, <https://www.congress.gov/bill/115th-congress/senate-bill/2155/text>.

⁹ 31 U.S.C. § 313 note.

¹⁰ *Id.*

¹¹ *Id.*

before the comment period ended. Stakeholders will also need adequate time to evaluate these comments.

The law also requires this report to be submitted “to the Comptroller General of the United States . . . for review.”¹² The Government Accountability Office (GAO) will need time to review and make its own analysis of the report. It is likely Congress did not intend for U.S. regulators to send a perfunctory report and arbitrarily adopt capital standards without proper due diligence and analysis by elected representatives, stakeholders, and the GAO. The NAIC, Fed, and FIO should follow congressional intent and disclose necessary details related to international capital standards; deliberations made to draft the proposals; and any meeting minutes prior to officially adopting new insurance capital standards.

The IAIS uses assessments similar to the NAIC’s accreditation program. The report points out that the IAIS would use the ICS as a tool to compare capital solvency among jurisdictions. One footnote mentions how the method mimics how the International Monetary Fund (IMF) assesses a country’s financial safety and soundness.¹³ Although model policies developed by or with the IAIS are not compulsory, assessments are used as a stick to ensure global uniformity in capital regulations.

The usage of these assessments has been the subject of scrutiny before congressional hearings.¹⁴ One hearing discussed how international regulatory bodies, such as the IAIS, have been circumventing elected representatives and, instead, have been working directly with U.S. regulators. Many members and witnesses concluded that more transparency is needed to shed light on how U.S. regulators are coordinating international entities. This principle applies to the Fed, FIO, and NAIC as members of the IAIS. One article highlights how staff at the IAIS and NAIC are knowingly going around elected officials to implement their policy priorities:

*IAIS officials are confident the new global standard will survive any deregulation drive under US president-elect Donald Trump because it is based on agreements with the individual regulators in each US state, rather than at a national level.*¹⁵

¹² *Id.*

¹³ n. 20

¹⁴ <https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=409015>.

¹⁵ https://www.ft.com/content/36708097-ba95-4105-9f4c-b67cdb5fc985?accessToken=zwAGKJsimiBAkc82cICXupVBBdOfTLZ821_JhQ.MEUCIQDvEJpFYtAttHbV7estC_q-fFTLa-u5Hu6tRJbcjZYUewlgeQy2OfQB0NkakUdiau_HCzFNlj80RGG31CklsDj0XA&sharetype=gif&token=4afcd488-234a-4447-b98c-2eb8104a5594.

This signifies that the IAIS harbors no reservations about imposing their policy preferences onto U.S. states directly and circumventing both the duly elected President and members of Congress.

* * * *

The process for evaluating capital standards for U.S. insurers needs to continue to involve U.S. legislative bodies. Circumventing the elected representatives or requiring international approbation of regulatory requirements flies in the face of U.S. law. Changes need to be made to address accountability and shine light on the opaque process of drafting, deliberating and adopting uniform regulatory capital standards for insurers.

If you have any questions, please contact Gordon Gray at gordon@pinpointpolicyinstitute.org

Sincerely,

Gordon Gray
Executive Director
Pinpoint Policy Institute

Grover Norquist
President
Americans for Tax Reform

Steve Pociask
Chief Executive Officer
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