CENTER FOR CAPITAL MARKETS COMPETITIVENESS

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January 15, 2021

Mr. Steven Seitz
Director, Federal Insurance Office
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

Re: Request for Information on Study of Global Insurance Capital Standard – 2020-22384

Dear Director Seitz:

The U.S. Chamber of Commerce's Center for Capital Markets Competitiveness ("CCMC") appreciates the opportunity to comment on the Request for Information ("RFI") from the Federal Insurance Office ("FIO") at the U.S. Department of the Treasury on the "Study on the Insurance Capital Standard." According to the RFI, FIO is soliciting input on a future study ("FIO study") to evaluate the potential effects of the insurance capital standards (ICS) on U.S. insurance markets, U.S. consumers, and U.S. insurers. And, FIO will consider the responses to this notice to inform its work on the ICS and related matters, including future revisions to the ICS and the economic impact assessment of the ICS to be conducted by the International Association of Insurance Supervisors ("IAIS") in 2023.

The Chamber's diverse membership includes purely domestic, as well as international and globally active insurance companies headquartered both in and outside of the United States. Perhaps more importantly, we have both member companies that rely on insurance products and members that rely on the larger role insurers play as investors in our global economy. Therefore, we are broadly supportive of the goal of safeguarding our financial system.

The Chamber believes that it is important for the United States to speak with a unified voice when advocating for our system of insurance – including state-based regulation – with other jurisdictions and international standard setting bodies such as the IAIS. The Chamber supported the creation of the Federal Insurance Office because it allows the American insurance industry to have a unified governmental entity in the negotiation of international agreements.

The Chamber encourages strong engagement by FIO on development of the ICS and welcomes the opportunity to provide input with the intention of mitigating unintended consequences of the ICS. Much of the debate about the ICS and Aggregation Method (AM) has been about intangible capital standards and resolving jurisdictional differences, but the policymaking could have very real implications for insurance firms, their customers, and

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financial markets if adopted. We believe robust economic assessment – like that proposed by FIO – will substantiate concerns that have long been raised by the Chamber about how an inappropriately calibrated ICS could limit product availability, inhibit investments by insurers, and add unnecessary compliance costs.

Recommendations:

I. **Consider Benefits of Insurance Firms to Markets**

II. **Advocate Changes to ICS Monitoring Period Including a Stronger Emphasis on the Economic Impact Assessment**

III. **Champion Aggregation Method**

IV. **Define and Determine "Comparability" so it Includes Credible Time-Tested Regulatory Approaches**

V. **Complement Research by Federal Reserve Board's Insurance Policy Advisory Committee and the NAIC**

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I. Consider Benefits of Insurance Firms to Markets

The insurance sector is an integral provider of capital to the U.S. economy and the global economy. Inappropriately structured regulation for the insurance sector, including the ICS, could have a significant impact on the ability of the sector to continue to serve as a source of stable capital to many public and private entities.

The Chamber of Commerce issued a report in March 2019 describing how the insurance sector invests in the U.S. economy.[1] The report finds that U.S. insurance assets totaled approximately $5.8 trillion as of December 2017. These investments are particularly important in certain asset classes that meet criteria necessary to achieve investment goals of insurers.

Insurance companies invest in a unique set of assets as a direct result of their business model. Therefore, U.S. insurance companies invest for different purposes than other institutional investors. They are primarily concerned with matching long-term liabilities and, as a result, hold

[1] U.S. Chamber of Commerce. The Role of Insurance Investments in the U.S. Economy (Winter 2019), available at https://www.centerforcapitalmarkets.com/wpcontent/uploads/2019/03/CCMC_InsurancePaper_v2.pdf

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appropriate assets to achieve this. The unique investment strategy of insurance companies results in tangible, long-term projects being financed by these firms and, indirectly, by policyholders.

This investment includes a 21% share of all corporate bonds, approximately $1.9 trillion, which fund the growth and operations from a myriad of businesses in all corners of the U.S. economy. For example, life insurers' public corporate bond investments alone funded about $120 billion of business investment in needed plants, equipment, and other capital expenditures in 2017. Investments made by all types of insurance companies are essential to a robust and competitive capital markets that U.S. businesses depend on as a stable source of financing.

The investment also includes 20% of all municipal bonds outstanding, approximately $800 billion, which helps fund the activities of state and local governments, including infrastructure investment. For example, the industry's investments in education projects through municipal bond purchases could build about 1,000 elementary schools every year. Likewise, its annual investments in municipal bonds for transportation projects could build a road from Washington, D.C., to Los Angeles every year.

More recently, the Brattle Group published a report in September 2020 finding that the life insurance industry in the U.S. is a driver of economic growth and important to the overall health and financial well-being of U.S. households. "Through its primary products—life insurance, annuities, and non-medical health products such as disability income insurance and long-term care insurance . . . the life insurance industry functions as a unique private provider of personal financial protection."[2]

II. Advocate Changes to ICS Monitoring Period Including a Stronger Emphasis on the Economic Impact Assessment

The Chamber strongly encourages FIO, in coordination with the National Association of Insurance Commissioners (NAIC) and the Federal Reserve Board (FRB), to advocate before the IAIS for changes to the timing and scope of the economic impact assessment and to the length of the monitoring period for the ICS. These changes are critical for ensuring that the IAIS has adequate time to address any unintended consequences identified via the impact assessment before the Monitoring Period concludes and to compensate for the reduced level of engagement that was able to occur in 2020 due to the COVID-19 pandemic.

The Chamber appreciates that "FIO aims to complete its study prior to the IAIS' issuance of a public consultation on the ICS as a prescribed capital requirements (PCR) and completion of

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[2] The Brattle Group. The Social and Economic Contributions of the Life Insurance Industry (September 2020), available at https://www.metlife.com/content/dam/metlifecom/us/sustainability/pdf/Reports-and-statements/reports-and-research/MetLife_Brattle_Life_Insurance_Paper.pdf

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its economic impact assessment in 2023."[3] We believe it would be helpful to have any study or analysis undertaken by FIO completed sooner rather than later. Importantly, Treasury's study should be completed well in advance of the IAIS economic impact assessment so its observations, recommendations, and conclusions can be used to inform the IAIS as it undertakes completion of its economic impact assessment.

The Chamber wrote to the Treasury Department, NAIC, and the FRB on November 19, 2020 regarding our concerns with the development of the ICS and the monitoring period that was established by the IAIS. The Chamber's letter requested that the IAIS conduct the economic impact assessment sooner, ensure the economic impact assessment is independent, and lengthen the monitoring period to account for lost time due to COVID-19.[4] A bipartisan letter authored by members of the U.S. House of Representatives to the Treasury Department made similar requests and noted concerns regarding "the potential detrimental impacts of the ICS on financial stability and the provision of long-duration products like life insurance or annuities…"[5] The IAIS has unfortunately declined to address, much less recognize, these concerns about the economic impact assessment and monitoring period.

The FIO study can be used to outline and emphasize key criteria that should be used in the IAIS economic impact assessment including the consideration of alternative approaches such as the AM. Additional costs would arise from a framework that varies from existing jurisdictional solvency regimes and related impacts to risk management practices, product pricing and availability, and other aspects that could be detrimental to consumers and financial markets. As explained by the NAIC, "[T]he adoption of a market adjusted valuation (MAV) approach would result in significant incremental costs. The MAV approach is different than U.S. Generally Accepted Accounting Principles (GAAP) and significantly different than state-based statutory accounting practices. As a result, there would be considerable effort and burdens … to implement a MAV basis of reporting (such as system changes, process changes, staff training, etc.)."[6]

Any study of the ICS should consider alternative approaches that could meet the IAIS' stated policy objectives without the introduction of unwarranted costs. The AM arguably has

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[3] See RFI, Study of Global Insurance Capital Standard, 85 Fed. Reg. 64229 (October 9, 2020)
[4] Quaadman, T. IAIS Monitoring Period and Impact Assessment for the ICS. [Letter written November 19, 2020, to the U.S. Department of the Treasury, Federal Reserve Board of Governors, and National Association of Insurance Commissioners] Available at http://www.centerforcapitalmarkets.com/wp-content/uploads/2020/12/201119_Comments_InsuranceCapitalStandard_Fed_Treasury_NAIC.pdf?#
[5] Budd, T. [Letter written October 1, 2020 to U.S. Department of the Treasury] Available at https://budd.house.gov/uploadedfiles/ics_letter_final.pdf
[6] U.S. Chamber of Commerce. Insurance Capital Standards and the Aggregation Method (Summer 2019), available at https://www.centerforcapitalmarkets.com/wp-content/uploads/2019/09/CCMC_InsurancePaper2_v4-DIGITAL.pdf

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numerous benefits and fewer costs than the ICS while still meeting stated objectives. These benefits, detailed below, primarily result from the Aggregation Method drawing from established and time-tested jurisdictional frameworks.

III. Champion Aggregation Method

The FIO study should focus on the merits of the AM and how it could serve as an effective tool for accomplishing the supervisory objective the IAIS has for the ICS. The Chamber believes the AM has several strengths from a supervisory and market perspective that make it more appropriate than the MAV approach. In September 2019, the U.S. Chamber of Commerce published a report titled, "Insurance Capital Standards and the Aggregation Method" which analyzes different approaches to group capital in the context of local insurance markets. The report discusses several attractive attributes of the AM.[7]

- **Leverage of existing solvency frameworks.** The Aggregation Method leverages existing jurisdictional solvency frameworks and capital requirements (e.g., risk-based capital in the U.S., Solvency II for the EU, etc.) that are already tailored to market specificities (e.g., risks, consumer needs, public policy frameworks/goals, etc.) in each jurisdiction and thus would avoid disrupting stable markets. As a result, the framework would present lower incremental costs and avoid introducing volatility and pro-cyclicality that would inhibit the ability of insurers to provide long duration liabilities and could adversely impact financial stability.
- **Alignment with regulatory authority.** Insurance entities are regulated by authorities within their local jurisdictions, thus the Aggregation Method is naturally aligned with the scope of regulatory authority and triggers. In contrast, a consolidated approach and metric may be of limited use to local regulators given their narrow scope of authority and focus.
- **Transparency.** The Aggregation Method provides supervisors with information at the entity level within broader insurance groups. This provides supervisors visibility into the capital position of specific entities in various jurisdictions within an insurer—allowing a more granular perspective of solvency than a "consolidated" approach that has a more limited view of component parts of the aggregated group and assumes fungibility across a group when it may not be available in practice.
- **Comparability across entities within a group.** Scalars can be employed to enable comparison of entities within the group.

More broadly, the report finds that the AM would more appropriately balance the goal of delivering a common language on group solvency for supervisory discussions with the need to

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[7] U.S. Chamber of Commerce. Insurance Capital Standards and the Aggregation Method (Summer 2019), available at https://www.centerforcapitalmarkets.com/wp-content/uploads/2019/09/CCMC_InsurancePaper2_v4-DIGITAL.pdf

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respect the bespoke nature of insurance markets around the world. In practice, this would preserve the ability of the insurance industry to play several critical roles in economies worldwide including providing products that allow society to manage exposure to low-frequency, high-severity risks and providing a key source of investments in the real economy.

IV. Define and Determine "Comparability" so it Includes Credible Time-Tested Regulatory Approaches

The FIO study should also focus on demonstrating how the AM can achieve comparability to the ICS. The principles and criteria that will anchor the IAIS' comparability assessment have not been finalized by the IAIS, but there is currently a consultation open requesting feedback. The Chamber plans to comment on this consultation and a high-level summary of our feedback to the IAIS can be found below.

At the IAIS Annual Meeting in November 2019, the IAIS agreed on a process and timeline for developing criteria to assess whether the AM provides comparable outcomes to the ICS. The IAIS agreed on a draft definition of comparable outcomes and an overarching approach (i.e. areas of focus) to guide the development of high-level principles and criteria. Additionally, based on the draft definition and overarching approach, the IAIS has developed draft high-level principles to inform the criteria that will be used to assess whether the AM provides comparable outcomes to the ICS.

The comparability assessment should not assume the ICS is a baseline for alternatives to be measured against. This approach establishes an anchoring bias that presumes the ICS accomplishes the objectives of the IAIS – which is an assumption that has yet to be confirmed. For example, the economic impact assessment and additional public consultation have yet to be conducted, there has been minimal opportunity for engagement with stakeholders on lingering design flaws in the version adopted in Abu Dhabi, and the IAIS has yet to engage with and meaningfully consider feedback regarding the appropriateness or usefulness of the tool from the frontline prudential supervisors of IAIGs for whom the ICS is supposed to serve as a resource.

The comparability assessment should instead focus on whether the approaches (i.e. the MAV ICS and AM) can accomplish the stated policy objectives while accepting that achievement of such may be accomplished in different manners. In particular, it would be appropriate for the assessment to focus on whether the AM can serve as a meaningful tool for facilitating supervisory discussions on group level risk and provide adequate signaling about potential areas of concern within an IAIG.

The Chamber believes that the comparability assessment should be both qualitative and quantitative in its construction and execution. The FIO study could include an assessment of key elements of the ICS and AM and how they respectively fulfil the objectives of the IAIS on an

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outcome equivalent basis. Relying exclusively on a quantitative assessment would ignore the important broader elements of an insurance supervisor's toolkit play in achieving prudential objectives. A comparison of only one tool, such as group capital, would be flawed and impractical as it would unduly emphasize one aspect of regulation versus numerous others that are equally if not more important.

The FIO study should seek to fully illuminate the regulatory and business challenges that will result from a delayed determination of outcome equivalency for the AM. The determination should be made well before the end of the monitoring period so individual jurisdictions have the appropriate guidance for the development of their approaches for implementing the AM. Furthermore, a delay in the determination could leave IAIGs in a limbo, including uncertainty regarding market access, operational changes, and management of the balance sheet. Uncertainty about outcome equivalency of the AM will create compounding issues as we move closer and closer to the end of the monitoring period.

V. Complement Research by Federal Reserve Board's Insurance Policy Advisory Committee and the NAIC

The Treasury Department, the FRB, and NAIC should coordinate to produce complementary research and analysis of the ICS and the AM. Coordination is paramount to achieving policy objectives that are in the best interest of the U.S. and global financial markets.

The Insurance Policy Advisory Committee (IPAC) was established at the Board of Governors in 2018 by section 211(b) of the Economic Growth, Regulatory Relief, and Consumer Protection Act.[8] The IPAC provides information, advice, and recommendations to the Board on international insurance capital standards and other insurance issues. The IPAC includes representation from a broad group of stakeholders including leading voices representing the insurance industry.

The record of the March 2020 meeting of the IPAC notes support for analyses of the ICS. Specifically, the record of meeting states, "IPAC members stated there could be value in each jurisdiction doing specific analyses or impact studies for its industry."[9] The Chamber's understanding is that the IPAC's research and analysis will focus on what implementation of the ICS in the U.S. would mean for product availability. We anticipate that the ICS, due to structural

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[8] The U.S. Chamber of Commerce supports the increased transparency and opportunity for input to the ICS with U.S. representatives to the Financial Stability Board and International Association of Insurance Supervisors. See letter in support of the Transparent Insurance Standards Act of 2016, available at https://www.centerforcapitalmarkets.com/letter/joint-trades-letter-to-house-subcommittee-on-housing-and-insurance-in-support-of-h-r-5143-the-transparent-insurance-standards-act-of-2016-06092016/

[9] Federal Reserve Board Insurance Policy Advisory Committee Record of Meeting (March 3, 2020), available at https://www.federalreserve.gov/aboutthefed/files/ipac-20200303.pdf

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design flaws including its approach to valuing insurance liabilities and risk exposures, would decrease product availability, especially for long-term guaranteed coverages that consumers – particularly in the U.S. – desire. The Chamber supports the IPAC's research focusing on the topic of product availability in the U.S. and believes that FIO can complement this research.

The Chamber does not anticipate the U.S. will adopt the ICS but we are concerned about what its adoption in foreign jurisdictions would mean for U.S. firms that operate globally and the overall health of financial markets. The Chamber appreciates the notice requesting "input on how U.S. insurers operating overseas may be affected by the potential implementation of the ICS in other jurisdictions." Potential elements FIO could focus on in this request include identification of operational challenges implementation may give rise to and related questions, implications for product offering, intra-group diversion, etc. Analysis of these points should also include consideration of these factors under the AM and can be conducted in the context of the IAIS' objectives for a global group capital framework.

Finally, we believe it is important that FIO be sensitive to the costs that result from data calls to the insurance industry. Studying the ICS, and its unintended consequences, is an important project for the public sector to partner with the private sector to advance U.S. interests. Where possible, we expect FIO to make use of existing data sets. If new data sets are necessary, we hope FIO will work with the industry to mitigate the costs of assembling and sharing information.

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Thank you providing the opportunity to comments on FIO's study of the insurance capital standard. We appreciate your efforts on this important initiative.

Respectfully,

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