

November 18, 2010

VIA ELECTRONIC FILING – Comments@FDIC.gov

Mr. Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Re: Notice of Proposed Rulemaking, Implementing Certain Orderly Liquidation Authority Provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 CFR Part 380

Dear Mr. Feldman:

The Property Casualty Insurers Association of America (PCI) appreciates the opportunity to submit comments regarding the FDIC's authority to resolve covered financial companies under Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act, and we urge the FDIC to interpret its resolution authority in a manner that respects state jurisdiction over the resolution of insurance companies.

As part of the implementation of its Title II authority, the FDIC proposes to add to its rules Section 380.6, which states that if the FDIC makes funds available to a covered financial company that is an insurance company,¹ the FDIC will exercise its right to take liens on some or all assets of such insurance company if, in the FDIC's "sole discretion," it determines that taking the liens is necessary for the orderly liquidation of the insurance company, and that taking the liens will not unduly impede or delay the liquidation or rehabilitation of the insurance company or the recovery by the insurance company's policyholders. The FDIC seeks comment on whether changes are necessary to its proposed rules.

The FDIC must remain mindful of the fact that insurers are heavily regulated and closely supervised by the state-based insurance regulatory system. Under this system, resolution of an insurance company is the responsibility of the appropriate state insurance regulator. It follows that a determination by the FDIC – alone – as to the necessity and effect of taking liens on insurance company assets, would constitute undue interference with state insurance regulation frameworks.

Dodd-Frank § 203(e) directs that liquidation or rehabilitation of a covered financial company that is an insurance company shall generally continue to be conducted in accordance with state law by the appropriate state regulatory agency, and § 209 of the statute directs the FDIC to harmonize, to the extent possible, the regulations implementing its liquidation authority with the insolvency laws that would otherwise govern a covered financial company. The FDIC's proposed rule acknowledges both of these directions. We accordingly recommend that to be consistent with these statutory directives, the proposed rule should provide that the FDIC will only exercise its right to take liens on assets of an insurance company if approved by the appropriate state insurance regulator.

We note that throughout Dodd-Frank, Congress has repeatedly recognized that the exercise of new federal powers under the statute must respect the states' well-established jurisdiction over the business of insurance. PCI is concerned that the FDIC's current proposal is a step in the opposite direction, and could unnecessarily

¹ New Rule 380.6 would also apply to a "covered subsidiary" of an insurance company. Since Dodd-Frank § 201(a)(9)(B) excludes insurance companies from the definition of "covered subsidiary," our comments here are focused on the ability of the FDIC to take liens on the assets of covered financial companies that are insurance companies.

complicate state solvency and oversight regulation that is already strict, conservative, and is attentive, as it must be, to the singular interests of policyholders.

PCI is composed of more than 1,000 member property/casualty insurance companies, representing the broadest cross-section of insurers of any national trade association. PCI members write more than \$174 billion in annual premium, over 37 percent of the nation's property/casualty insurance.

If you have any questions or if PCI may be of any future assistance, please contact me at james.olsen@pciaa.net or 847-553-3664.

Sincerely,

A handwritten signature in black ink, appearing to read "James M. Olsen", is centered below the word "Sincerely,". The signature is fluid and cursive.

James M. Olsen
Senior Director Accounting and Investment Policy