



American Insurance Association

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VIA ELECTRONIC MAIL (regs.comments@federalreserve.gov; Comments@FDIC.gov)

Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551

Robert E. Feldman, Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington D.C. 20429

Re: Notice of Proposed Rulemaking Regarding Resolution Plans and Credit Exposure Reports Required (Federal Reserve Regulation YY, Docket No. 1414, RIN 7100-AD73; FDIC 12 C.F.R. Part 381, RIN 3064-AD77)

Ladies and Gentlemen:

The American Insurance Association (“AIA”) appreciates the opportunity to comment on the Board of Governors of the Federal Reserve System’s (“Board”) and the Federal Deposit Insurance Corporation’s (“FDIC”) joint proposed rule implementing the requirements of section 165(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act”) regarding resolution plans and credit exposure reports (“Joint Proposed Rule”) to be submitted by banks with total consolidated assets of \$50 billion and nonbank financial companies “supervised by the Board” as a result of the section 113 designation process.¹ AIA represents approximately 300 major U.S. insurance companies that provide all lines of property-casualty insurance to U.S. consumers and businesses, writing more than \$117 billion annually in premiums. Our members have a significant interest in the Joint Proposed Rule as it could impact property-casualty insurance companies.

¹ 76 Fed. Reg. 22648 (April 22, 2011).

As we have noted in previous comments submitted by AIA to the Financial Stability Oversight Council, the Board and the FDIC,² property-casualty insurers are extensively regulated under state law and closely supervised by state insurance authorities. As a result, they present a low risk profile to our nation's financial system. Therefore, we believe it highly unlikely that property-casualty insurers engaged in traditional insurance activities will ever pose a threat to the financial stability of the United States. Accordingly, we believe that property-casualty insurers will not be subject to Board supervision that triggers the requirements of section 165(d) and the Joint Proposed Rule.

Nevertheless, AIA is concerned with the manner in which the Joint Proposed Rule may potentially apply to property-casualty insurers because it fails to take into account the role of state insurance authorities in resolving insurers that are placed into receivership and because it could potentially require burdensome and duplicative production of credit exposure information already supplied to state insurance regulators.

Resolution Plans

The Joint Proposed Rule preamble indicates that if an entity is subject to an insolvency regime other than the Bankruptcy Code, the analysis should be in reference to that applicable regime.³ We believe that this guidance does not appropriately address situations, like insurance, where the resolution of an insurer that is in distress or insolvent is determined exclusively by the actions of the state insurance authority or a receiver appointed by the state insurance authority.⁴

As the Board and FDIC are aware, section 203(e) of the Dodd-Frank Act directs that the liquidation or rehabilitation of an insurance company shall be conducted as provided under applicable state law.⁵ Because insurers are subject to state-based receivership laws, it is impossible for them to prepare resolution plans that meet the informational content requirements set forth in the Joint Proposed Rule. In this context, insurers are in a position with regard to resolution matters that is virtually identical to that of insured depository institutions for which the FDIC is appointed receiver under the Federal Deposit Insurance Act ("FDIA").⁶ As you know, under the FDIA, the FDIC, as receiver, has plenary authority over the disposition of the assets, liabilities and affairs of an insured depository institution in

² See, e.g., American Insurance Association comment letter of November 18, 2010 to Robert E. Feldman regarding "Proposed Orderly Liquidation Rulemaking"; American Insurance Association comment letter of May 23, 2011 to Robert E. Feldman regarding "Orderly Liquidation Rulemaking"; American Insurance Association comment letter of May 23, 2011 to Jennifer Johnson regarding "Supervisory Guidance to Savings and Loan Holding Companies"; American Insurance Association comment letter of February 25, 2011 to Financial Stability Oversight Council regarding "Authority to Require Supervision and Regulation of Nonbank Financial Companies").

³ 76 Fed. Reg. at 22649, fn.7.

⁴ See, e.g., Cal. Ins. Code § 1010 *et seq.* (2010); NY Ins. Law § 7402 *et seq.* (2011).

⁵ Dodd-Frank Act, Pub. L. 111-203, § 203(e); 12 U.S.C. § 5383(e)

⁶ 12 U.S.C. § 1821.

receivership.⁷ The Joint Proposed Rule recognizes that resolution plans submitted by bank and savings and loan holding companies will not address resolution of the depository institution subsidiaries because of the primacy of the FDIA and the role of the FDIC as receiver. Accordingly, AIA strongly urges that when deliberating on the final rule, the Board and the FDIC treat insurers in the same manner as the Joint Proposed Rule treats depository institutions. The final rule should expressly acknowledge that in view of the role of state insurance laws relating to resolution of insurers, covered companies that are insurers are not required to submit to the Board and the FDIC a report regarding the insurer’s plan for rapid and orderly resolution in the event of material financial distress at or failure of the company.

Credit Exposure Reports

As noted, the Joint Proposed Rule also requires a covered company to submit a credit exposure report on a quarterly basis (unless the Board requests more frequent reporting). The report would include a variety of credit exposure information (such as credit exposure associated with all extensions of credit, committed but undrawn lines of credits, deposits and money placements, repurchase agreements, reverse repurchase agreements, securities borrowing and lending transactions, guarantees, acceptances or letters of credit, securities investments, and derivatives trading) for not only the covered company, but any “significant” banking holding company or nonbank financial company, along with a description of the systems and processes used to collect the data underlying the report.⁸ This reporting requirement is so broad that it will not only affect any financial institution that is a covered company, but also any nonbank financial company that meets the regulatory definition of “significant.”

For insurers, most, if not all, of the credit exposure data contemplated by the Joint Proposed Rule is already provided to state insurance regulators in an NAIC-formatted annual statement.⁹ In those instances where insurers would be either directly or indirectly covered by the quarterly production of a credit exposure report to the Board and the FDIC, we would respectfully urge the federal agencies to rely on the annual statements already provided to state insurance regulators or, in the alternative, to establish an avenue for the submission of the annual statement information in lieu of a credit exposure report. This would be consistent with the general principle that new federal rules should avoid establishing required reporting at the federal level that duplicates existing state reports.

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⁷ 12 U.S.C. § 1821(d).

⁸ 76 *Fed. Reg.* at 22659.

⁹ Insurers regulated within the United States are obligated to file an Annual Statement, which includes an audited Summary Investment Schedule (SIS). The SIS summarizes an insurer’s investment portfolio by asset classes, which are further segregated into subclasses, allowing regulators to review the investment holdings by category and to evaluate whether the insurer has any concentration of assets within a particular category. Detailed investment schedules are also filed to support the SIS.

AIA appreciates this opportunity to provide its views on the Joint Proposed Rule and would be pleased to discuss our comments further with you.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. Zielezienski', with a long horizontal flourish extending to the right.

J. Stephen ("Stef") Zielezienski
Senior Vice President & General Counsel
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