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February 18, 2014

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

Re: Federal Deposit Insurance Corporation (FDIC) Notice; Request for Comments.- Resolution of Systemically Important Financial Institutions: The Single Point of Entry Strategy, FR Doc. 2013–30057

Dear Sir:

The National Association of Mutual Insurance Companies ("NAMIC") appreciates the opportunity to provide comments regarding the notice and request for comment set forth above (the "Notice").

NAMIC is the largest property/casualty insurance trade association in the country, serving regional and local mutual insurance companies on main streets across America as well as many of the country's largest national insurers. The 1,400 NAMIC member companies serve more than 135 million auto, home and business policyholders and write more than $196 billion in annual premiums, accounting for 50 percent of the automobile/homeowners market and 31 percent of the business insurance market. Through our advocacy programs, we promote public policy solutions that benefit NAMIC companies and the consumers we serve.

Background

The Orderly Liquidation Authority (OLA) set out in Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) provides the FDIC with the ability to resolve systemically important financial institutions (SIFIs) when bankruptcy would have serious adverse effects on the financial stability in the United States. The FDIC has been developing the strategy to implement its Authority and has published the Notice and request for comments.

While Title II clearly establishes certain policy goals, the Dodd-Frank Act does not specify how a resolution should be structured. In the Notice, the FDIC has proposed a Single Point of Entry Strategy, that further defines the operations of: the appointment of the FDIC as the Title II Receiver; the organization, operation and funding of bridge financial companies; a claims determination and capitalization process; capital and debt levels at the holding company; and, how Orderly Liquidation Fund (OLF) monies can be used.

The Notice provides important definition to how, when and where OLF monies can be spent, but NAMIC is concerned that the more important question of the source of OLF requires at least as much – if not more – attention as spending the OLF. It is certainly reasonable to expect that an authority that by definition is required to be "orderly" in times of questionable financial stability should have a clear and defined funding process prior to the time that it is needed. Financial companies that may have a statutory requirement to contribute assessments in a time of uncertain financial stability have a reasonable expectation – if not a fiduciary responsibility – to fully understand and plan for whether and how they will be so assessed.

OLF Funding and Assessments

As noted in the Notice, OLF is not prefunded but obtains the required assets from borrowings that are fully secured through the pledge of assets of the bridge financial company and its subsidiaries. Borrowing in a time of questionable financial stability is, however, an inherently uncertain proposition. The Notice acknowledges that that these sources may be insufficient to repay the borrowings, and that the Dodd Frank Act empowers the FDIC with the authority to impose risk-based assessments on eligible financial companies - bank holding and savings and loan holding companies with $50 billion or more in total assets and nonbank financial companies designated by the Financial Stability Oversight Council (FSOC) - to repay the Treasury. Section 214(c) of the Dodd-Frank Act requires that taxpayers shall bear no losses from the exercise of any authority under Title II.

Section 210 (o) (2) of the Dodd Frank Act requires the FDIC to impose these assessments on a graduated basis, with financial companies having greater assets and risk being assessed at a higher rate. Section 210 (o) (4) of the Dodd Frank Act specifies that, in imposing such assessments, the FDIC is required to establish and use a risk matrix. The FSOC is statutorily required to make a recommendation to the FDIC on the risk matrix, which the FDIC shall take into account any such recommendation in the establishment of the risk matrix to be used to impose such assessment.

In recommending or establishing such risk matrix, the FSOC and the FDIC are also statutorily required to take into account if the financial company or an affiliate of a financial company is an

insurance company, already assessed pursuant to applicable State law to the costs of the rehabilitation, liquidation, or other State insolvency proceeding.

Section 210 (o) (6) specifically requires the FDIC to prescribe regulations to carry out this subsection, and that the regulations

> take into account the differences in risks posed to the financial stability of the United States by financial companies, the differences in the liability structures of financial companies, and the different bases for other assessments that such financial companies may be required to pay, to ensure that assessed financial companies are treated equitably and that and that assessments under this subsection reflect such differences and that assessments under this subsection reflect such difference.

Prior to Defining How the OLF May be Spent to Address Insolvent Firms, the FDIC Should Address How the Remaining Solvent Firms May Be Assessed for the OLF

In times of financial instability, the stable financial companies may be required by the FDIC to provide significant funding for uncertain levels and numbers of orderly liquidation. Section 214(c) of the Dodd-Frank Act requires that taxpayers shall bear no losses from that exercise. The FDIC has taken prudent efforts under the Notice to define its roles and responsibilities, but it has left the assessment process and statutorily required risk matrix undefined. The assessment is conditional, but there is a significant likelihood that the assets of the bridge financial company may prove insufficient.

The FDICs reliance on the backstop of these financial companies to enhance financial stability would be promoted by the FDIC fulfilling its statutory duty to define a risk matrix and an assessment process for which financial companies can adapt. Comprehension of the likely requirements of such an assessment by company would be a critical part of any reasonable risk management plans.

Before expending further FDIC resources in defining how FDIC will operate the OLF, NAMIC respectfully proposes that FDIC meet its statutory duty to prescribe regulations to carry out this program, and that the regulations take into account the differences in risks posed to the financial stability of the United States by financial companies, the differences in the liability structures of financial companies, and the different bases for other assessments that such financial companies.

Property Casualty Insurance and Financial Stability

There is near unanimous agreement that traditional property/casualty insurers pose no systemic risk to the nation's economy. The International Association of Insurance Supervisors ("IAIS") in

its November 2011 report on Insurance and Financial Stability found that "insurers engaged in traditional insurance activities were largely not a concern from a systemic risk perspective" as a result of the specific nature of the insurance business model and in the way insurance liabilities are funded and claims are settled. In fact, the IAIS concluded that insurers provide "an important contribution to the financial sound-ness of banks and more broadly to financial stability." http://www.iaisweb.org/temp/Insurance_and_financial_stability.pdf

The 2011 Annual Report of the Financial Stability Council found that "insurance institutions were only indirectly affected by the crisis" and that "the traditional U.S. insurance market largely functioned without disruption in payments to consumers throughout the financial crisis and the recovery." http://www.treasury.gov/initiatives/fsoc/Documents/FSOCAR2011.pdf Highlighting the performance of the insurance industry the same report found that "only 28 of approximately 8,000 insurers became insolvent in 2008 and 2009, and those insurers are being resolved pursuant to applicable state law."

Mutual and reciprocal insurance companies are unique in the financial services industry because they are member owned. Their business practices are not driven by stock prices and quarterly financial reports. Even the largest of NAMIC members follows a conservative business model, including strong reserves and conservative investments reflecting the mutuality at the heart of their companies. The stability and soundness in order to protect policyholder-owners is the primary goal – preventing these companies from overextending or engaging in risky business practices.

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Very few mutual and reciprocal insurers use commercial paper, short-term debt or other leverage instruments in their capital structures, a fact that makes them less vulnerable than highly leveraged institutions when financial markets collapse. Because of their basic business model and strict capital requirements imposed by state regulators, these insurers are much more heavily capitalized, in terms of their asset-to-liabilities ratios, than banks and hedge funds. This, of course, is a completely different model than the banking world where leverage is a central component of the enterprise.

In brief, there is no evidence that the property casualty insurance poses any risks whatsoever to the financial stability of the United States. In almost every circumstance, the liability structure of property casualty companies is far more conservative than other financial companies. A strong argument can be made that property casualty insurance companies pose no risks to the financial stability of the United States, and that under any reasonable risk matrix, the policy holders of property casualty companies should not be assessed for the orderly liquidation of financial companies that accept significant risk in search of higher profits.

Virtually every analysis of the crisis has concluded that mutual and reciprocal insurers had little or no responsibility for the financial crisis. In fact, the industry has remained stable throughout the crisis and no mutual or reciprocal insurer received money under TARP. NAMIC members from the largest to the smallest remain well capitalized and were never in danger of insolvency during the crisis.

Under the Dodd Frank Act, the regulations defining the OLF assessment must take into account the differences in risks posed to the financial stability of the United States by financial companies, the differences in the liability structures of financial companies, the different bases for other assessments that such financial companies, and consider specifically that insurance companies are already assessed pursuant to applicable State law for the costs of the rehabilitation, liquidation, or other State insolvency proceeding.

Section 210 (o)(1)(E) requires the FDIC to consider other applicable and appropriate risk-related factors in the risk matrix. As shown above, there is uniform recognition that property casualty companies and mutual property casualty companies in particular present almost none of the risk factors the FDIC is statutorily required to apply. The historical low levels of risk evidenced by mutual property casualty companies, coupled with the lack of any regulatory or academic findings of risk at mutual property casualty companies is an important, applicable and appropriate risk-related factor that must be considered in the FDIC risk matrix.

Conclusion

Accordingly, NAMIC believes that any rational OLF assessment, risk matrix and the imposition of these assessments on a graduated basis, with financial companies having greater assets and risk being assessed at a higher rate, would reasonably result in mutual property casualty insurance companies being excluded from any assessment program.

We respectfully request that the FDIC document and publish its proposed assessment procedures prior to implementing any further regulations with respect to the OLA. In this particular case, responsibility must be borne by those companies so identified, and not on member-owned insurers, merely due to artificial criteria such as size. If you have questions or comments, please feel free to contact me at 202-628-1558, tkarol@namic.org.

Respectfully submitted,

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