



**EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503**

December 6, 2016  
(House)

## **STATEMENT OF ADMINISTRATION POLICY**

### **H.R. 5143 – Transparent Insurance Standards Act of 2016**

(Rep. Luetkemeyer, R-MO, and 39 cosponsors)

The Administration strongly opposes H.R. 5143, the Transparent Insurance Standards Act of 2016. This legislation would roll back critical Wall Street reforms intended to protect American consumers and our financial system. The Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) created important and necessary changes to regulatory authorities and coordination for the insurance industry. H.R. 5143 would severely weaken these reforms, which were put in place to enhance insurance industry oversight in the wake of the 2008 financial crisis. The Nation has made great progress as a result of the Dodd-Frank Act, and cannot allow this bill to hamper the United States' ability to implement the best standards for our unique regulatory regime. The restrictions that this legislation seeks to place on United States representatives in international insurance matters under H.R. 5143 would raise serious constitutional concerns and severely outweigh any potential attendant benefits.

Following the 2008 financial crisis, and specifically after the near-collapse of American International Group, Inc. (AIG), the Dodd-Frank Act established a new supervisory and regulatory framework to examine financial stability risks in the insurance industry both domestically and internationally. The Dodd-Frank Act created the Federal Insurance Office (FIO), which is directed in part to "coordinate federal efforts and develop federal policy on prudential aspects of international insurance matters, including representing the United States, as appropriate, in the International Association of Insurance Supervisors (IAIS) and assisting the Secretary in negotiating covered agreements." The Dodd-Frank Act also expanded the scope of the Federal Reserve's supervisory authority so that it now serves as the consolidated supervisor of insurance holding companies that own either a Federally chartered thrift or a bank, as well as non-bank financial companies designated by the Financial Stability Oversight Council (FSOC). FIO, the Federal Reserve, and state insurance commissioners are all actively engaged at the IAIS and regularly coordinate with one another, ensuring that each aspect of the unique United States regulatory regime is adequately represented in any international negotiation. Despite their effective coordination and extensive work thus far to improve global insurance regulation, the restrictions which H.R. 5143 seeks to impose would stop this work in its tracks and would put in place cumbersome and counterproductive requirements.

H.R. 5143 would purport to prescribe strict negotiating objectives for United States representatives in international fora regarding international insurance standards, and establish several new processes and reporting requirements to be completed before any standard could be agreed to. These requirements would contravene the President's exclusive constitutional authority to determine the time, scope, and objectives of international negotiations. They also would add significant delays and limitations to the process for developing an international insurance capital standard, ultimately weakening the United States' ability to negotiate effectively for standards that best accommodate our unique regulatory regime.

Specifically, under H.R. 5143, FIO and the Federal Reserve would not be allowed to agree to international insurance standards unless, among other things, such standards are first published in the Federal Register and made available for public comment for 30 days. If this prohibition applied to the mere negotiation and conclusion of such agreements, it would violate the President's exclusive constitutional authority to conduct international negotiations. Even construed to avoid unconstitutional application, this type of requirement would significantly impair U.S. interests at both the IAIS and the Financial Stability Board (FSB) and limit the ability of the United States to influence decisions made at the IAIS, which could result in international insurance standards being adopted that are not in the best interests of U.S. consumers, the U.S. insurance industry, and the U.S. economy.

Furthermore, H.R. 5143 would require the Secretary of the Treasury and the United States Trade Representative to "consult with and directly include State insurance commissioners" in negotiation of written bilateral or multilateral agreements regarding insurance or reinsurance. Although the President may choose to permit such consultation and involvement, as has been done already, the President's authority to determine who will represent the United States in international negotiations is exclusive, and the Congress may not dictate these choices for him.

Finally, the bill would limit the amount available to the Securities and Exchange Commission (SEC) through its mandatory Reserve Fund, established by the Dodd-Frank Act. This cut to SEC resources is completely unrelated to international insurance standards and would negatively impact the SEC's ability to fund the long-term information technology initiatives that are necessary to keep pace with industry's increasing use of new and technologically-complex financial products and services.

Because this legislation seeks to tie the hands of U.S. representatives, in an unconstitutional manner, and prevent them from effectively negotiating on international insurance matters, the Administration strongly opposes H.R. 5143.

If the President were presented with H.R. 5143, his senior advisors would recommend he veto the bill.

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