

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
TITLE VI--FEDERAL INSURANCE OFFICE	TITLE V—INSURANCE <i>Subtitle A--Office of National Insurance</i>	
<p>SEC. 8001. SHORT TITLE.</p> <p>This title may be cited as the `Federal Insurance Office Act of 2009'.</p>	<p>SEC. 501. SHORT TITLE.</p> <p><i>This subtitle may be cited as the `Office of National Insurance Act of 2010'.</i></p>	
<p>SEC. 8002. FEDERAL INSURANCE OFFICE ESTABLISHED.</p> <p>(a) Establishment of Office- Subchapter I of chapter 3 of title 31, United States Code, is amended--</p> <p>(1) by transferring and inserting section 312 after section 313;</p> <p>(2) by redesignating sections 313 and 312 (as so transferred) as sections 312 and 315, respectively; and</p> <p>(3) by inserting after section 312 (as so redesignated) the following new sections:</p>	<p>SEC. 502. ESTABLISHMENT OF OFFICE OF NATIONAL INSURANCE.</p> <p><i>(a) Establishment of Office- Subchapter I of chapter 3 of subtitle I of title 31, United States Code, is amended--</i></p> <p><i>(1) by redesignating section 312 as section 315;</i></p> <p><i>(2) by redesignating section 313 as section 312; and</i></p> <p><i>(3) by inserting after section 312 (as so redesignated) the following new sections:</i></p>	
<p>SEC. 313. FEDERAL INSURANCE OFFICE.</p> <p>(a) Establishment of Office- There is established the Federal Insurance Office as an office in the Department of the Treasury.</p>	<p>SEC. 313. OFFICE OF NATIONAL INSURANCE.</p> <p><i>(a) Establishment- There is established within the Department of the Treasury the Office of National Insurance.</i></p>	
<p>(b) Leadership- The Office shall be headed by a Director, who shall be appointed by the Secretary of the Treasury. The position of such Director shall be a career reserved position in the Senior Executive Service.</p>	<p><i>(b) Leadership- The Office shall be headed by a Director, who shall be appointed by the Secretary of the Treasury. The position of Director shall be a career reserved position in the Senior Executive Service, as that position is defined under section 3132 of title 5, United States Code.</i></p>	
<p>(c) Functions-</p> <p>(1) AUTHORITY PURSUANT TO DIRECTION OF SECRETARY- The Office shall have the authority, pursuant to the direction of the Secretary, as follows:</p> <p>(A) To monitor the insurance industry to gain expertise.</p> <p>(B) To identify issues or gaps in the regulation of insurers that could contribute to a systemic crisis in the insurance industry or the United States financial system.</p> <p>(C) To monitor the extent to which traditionally</p>	<p>(c) Functions-</p> <p><i>(1) AUTHORITY PURSUANT TO DIRECTION OF SECRETARY- The Office, pursuant to the direction of the Secretary, shall have the authority--</i></p> <p><i>(A) to monitor all aspects of the insurance industry, including identifying issues or gaps in the regulation of insurers that could contribute to a systemic crisis in the insurance industry or the United States financial system;</i></p> <p><i>(B) to recommend to the Financial Stability Oversight Council that it designate an insurer,</i></p>	

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<p>underserved communities and consumers, minorities (as such term is defined in 24 section 1204(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note)), and low- and moderate-income persons have access to affordable insurance products regarding all lines of insurance, except health insurance.</p> <p>`(D) To recommend to the Financial Services Oversight Council that it designate an insurer, including its affiliates, as an entity subject to stricter standards.</p> <p>`(E) To assist the Secretary in administering the Terrorism Insurance Program established in the Department of the Treasury under the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note).</p> <p>`(F) 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 or any successor organization and assisting the Secretary in negotiating covered agreements.</p> <p>`(G) To determine, in accordance with subsection (f), whether State insurance measures are preempted by covered agreements.</p> <p>`(H) To consult with the States regarding insurance matters of national importance and prudential insurance matters of international importance.</p> <p>`(I) To perform such other related duties and authorities as may be assigned to it by the Secretary.</p> <p>`(2) ADVISORY FUNCTIONS- The Office shall advise the Secretary on major domestic and prudential international insurance policy issues.</p> <p>`(3) ADVISORY CAPACITY ON COUNCIL- The Director shall serve in an advisory capacity on the Financial Services Oversight Council established under the Financial Stability Improvement Act of 2009.</p>	<p><i>including the affiliates of such insurer, as an entity subject to regulation as a nonbank financial company supervised by the Board of Governors pursuant to title I of the Restoring American Financial Stability Act of 2010;</i></p> <p><i>`(C) to assist the Secretary in administering the Terrorism Insurance Program established in the Department of the Treasury under the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note);</i></p> <p><i>`(D) 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 (or a successor entity) and assisting the Secretary in negotiating International Insurance Agreements on Prudential Measures;</i></p> <p><i>`(E) to determine, in accordance with subsection (f), whether State insurance measures are preempted by International Insurance Agreements on Prudential Measures;</i></p> <p><i>`(F) to consult with the States (including State insurance regulators) regarding insurance matters of national importance and prudential insurance matters of international importance; and</i></p> <p><i>`(G) to perform such other related duties and authorities as may be assigned to the Office by the Secretary.</i></p> <p><i>`(2) ADVISORY FUNCTIONS- The Office shall advise the Secretary on major domestic and prudential international insurance policy issues.</i></p>	
<p>`(d) Scope- The authority of the Office shall extend to all lines of insurance except health insurance, as determined by the Secretary in coordination with the Secretary of the Department of Health and Human Services based on section 2791 of the Public Health Service</p>	<p><i>`(d) Scope- The authority of the Office shall extend to all lines of insurance except health insurance, as such insurance is determined by the Secretary based on section 2791 of the Public Health Service Act (42 U.S.C. 300gg-91), and crop insurance, as established by the</i></p>	

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Act (42 U.S.C. 300gg-91).	<i>Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).</i>	
<p>^(e) Gathering of Information-</p> <p>^(1) GENERAL- In carrying out its functions under subsection (c), the Office may request, receive, and collect data, including financial data, and information on and from the insurance industry and insurers, enter into information-sharing agreements, analyze and disseminate data and information, and issue reports regarding all lines of insurance except health insurance.</p> <p>^(2) COLLECTION OF INFORMATION FROM INSURERS AND AFFILIATES- Except as provided in paragraph (3) and subject to paragraph (4), the Office may require an insurer, or affiliate of an insurer, to submit such data or information that the Office may reasonably require in carrying out its functions under subsection (c). Notwithstanding subsection (p) and for the purposes of this paragraph only, the term 'insurer' means any entity that writes insurance or reinsures risks and issues contracts or policies in one or more States.</p> <p>^(3) EXCEPTION FOR SMALL INSURERS- Paragraph (2) shall not apply with respect to any insurer or affiliate thereof that meets a minimum size threshold that may be established by the Office by order or rule. Such threshold shall be appropriate to the particular request and need for the data or information.</p> <p>^(4) ADVANCE COORDINATION- Before collecting any data or information under paragraph (2) from an insurer, or affiliate of an insurer, the Office shall coordinate with each relevant Federal agency and State insurance regulator (or other relevant Federal or State regulatory agency, if any, in the case of an affiliate of an insurer) and any publicly available sources to determine if the information to be collected is available from, or may be obtained in a timely manner by, such Federal agency or State insurance regulator, individually or collectively, other regulatory agency, or publicly available sources. If the Director determines that such data or information is available, or may be obtained in a timely manner, from such an agency, regulator, regulatory agency, or source, the Director shall obtain the data or information from such agency, regulator, regulatory agency, or source. If the Director determines that such data or information is not so available, the Director may collect such data or information from an insurer (or affiliate) only if the Director complies with</p>	<p>^(e) <i>Gathering of Information-</i></p> <p>^(1) <i>IN GENERAL- In carrying out the functions required under subsection (c), the Office may--</i></p> <p>^(A) <i>receive and collect data and information on and from the insurance industry and insurers;</i></p> <p>^(B) <i>enter into information-sharing agreements;</i></p> <p>^(C) <i>analyze and disseminate data and information;</i></p> <p><i>and</i></p> <p>^(D) <i>issue reports regarding all lines of insurance except health insurance.</i></p> <p>^(2) <i>COLLECTION OF INFORMATION FROM INSURERS AND AFFILIATES-</i></p> <p>^(A) <i>IN GENERAL- Except as provided in paragraph (3), the Office may require an insurer, or any affiliate of an insurer, to submit such data or information as the Office may reasonably require in carrying out the functions described under subsection (c).</i></p> <p>^(B) <i>RULE OF CONSTRUCTION- Notwithstanding any other provision of this section, for purposes of subparagraph (A), the term 'insurer' means any person that is authorized to write insurance or reinsure risks and issue contracts or policies in 1 or more States.</i></p> <p>^(3) <i>EXCEPTION FOR SMALL INSURERS- Paragraph (2) shall not apply with respect to any insurer or affiliate thereof that meets a minimum size threshold that the Office may establish, whether by order or rule.</i></p> <p>^(4) <i>ADVANCE COORDINATION- Before collecting any data or information under paragraph (2) from an insurer, or any affiliate of an insurer, the Office shall coordinate with each relevant State insurance regulator (or other relevant Federal or State regulatory agency, if any, in the case of an affiliate of an insurer) to determine if the information to be collected is available from, or may be obtained in a timely manner by, such State insurance regulator, individually or collectively, another regulatory agency, or publicly available sources. Notwithstanding any other provision of law, each such relevant State insurance regulator or other Federal or State regulatory agency is authorized to provide to the Office such data or information.</i></p>	

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<p>the requirements of subchapter I of chapter 35 of title 44, United States Code (relating to Federal information policy; commonly known as the Paperwork Reduction Act) in collecting such data or information. Notwithstanding any other provision of law, each such relevant Federal agency and State insurance regulator or other Federal or State regulatory agency is authorized to provide to the Office such data or information.</p> <p>“(5) CONFIDENTIALITY-</p> <p>“(A) The submission of any non-publicly available data and information to the Office under this subsection shall not constitute a waiver of, or otherwise affect, any privilege arising under Federal or State law (including the rules of any Federal or State Court) to which the data or information is otherwise subject.</p> <p>“(B) Any requirement under Federal or State law to the extent otherwise applicable, or any requirement pursuant to a written agreement in effect between the original source of any non-publicly available data or information and the source of such data or information to the Office, regarding the privacy or confidentiality of any data or information in the possession of the source to the Office, shall continue to apply to such data or information after the data or information has been provided pursuant to this subsection to the Office.</p> <p>“(C) Any data or information obtained by the Office may be made available to State insurance regulators individually or collectively through an information sharing agreement that shall comply with applicable Federal law and that shall not constitute a waiver of, or otherwise affect, any privilege under Federal or State law (including the rules of any Federal or State Court) to which the data or information is otherwise subject.</p> <p>“(D) Section 552 of title 5, United States Code, shall apply to any data or information submitted by an insurer or affiliate of an insurer.</p>	<p>“(5) CONFIDENTIALITY-</p> <p>“(A) <i>RETENTION OF PRIVILEGE-</i> The submission of any nonpublicly available data and information to the Office under this subsection shall not constitute a waiver of, or otherwise affect, any privilege arising under Federal or State law (including the rules of any Federal or State court) to which the data or information is otherwise subject.</p> <p>“(B) <i>CONTINUED APPLICATION OF PRIOR CONFIDENTIALITY AGREEMENTS-</i> Any requirement under Federal or State law to the extent otherwise applicable, or any requirement pursuant to a written agreement in effect between the original source of any nonpublicly available data or information and the source of such data or information to the Office, regarding the privacy or confidentiality of any data or information in the possession of the source to the Office, shall continue to apply to such data or information after the data or information has been provided pursuant to this subsection to the Office.</p> <p>“(C) <i>INFORMATION SHARING AGREEMENT-</i> Any data or information obtained by the Office may be made available to State insurance regulators, individually or collectively, through an information sharing agreement that--</p> <p>“(i) shall comply with applicable Federal law; and</p> <p>“(ii) shall not constitute a waiver of, or otherwise affect, any privilege under Federal or State law (including the rules of any Federal or State Court) to which the data or information is otherwise subject.</p> <p>“(D) <i>AGENCY DISCLOSURE REQUIREMENTS-</i> Section 552 of title 5, United States Code, shall apply to any data or information submitted to the Office by an insurer or an affiliate of an insurer.</p> <p>“(6) <i>SUBPOENAS AND ENFORCEMENT-</i> The Director shall have the power to require by subpoena the production of the data or information requested under paragraph (2), but only upon a written finding by the Director that such data or information is required to carry out the functions described under subsection (c) and that the Office has coordinated with</p>	

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	<p><i>such regulator or agency as required under paragraph (4). Subpoenas shall bear the signature of the Director and shall be served by any person or class of persons designated by the Director for that purpose. In the case of contumacy or failure to obey a subpoena, the subpoena shall be enforceable by order of any appropriate district court of the United States. Any failure to obey the order of the court may be punished by the court as a contempt of court.</i></p>	
<p>^(f) Preemption of State Insurance Measures-</p> <p>^(1) STANDARD- A State insurance measure shall be preempted pursuant to this section or section 314 if, and only to the extent that the Director determines, in accordance with this subsection, that the measure--</p> <p>^(A) directly results in less favorable treatment of a non-United States insurer domiciled in a foreign jurisdiction that is subject to a covered agreement than a United States insurer domiciled, licensed, admitted, or otherwise authorized in that State; and</p> <p>^(B) is inconsistent with a covered agreement that is entered into on a date after the date of the enactment of this Act.</p> <p>^(2) DETERMINATION-</p> <p>^(A) NOTICE OF POTENTIAL INCONSISTENCY- Before making any determination of inconsistency, the Director shall--</p> <p>^(i) notify and consult with the appropriate State regarding any potential inconsistency or preemption;</p> <p>^(ii) notify and consult with the United States Trade Representative regarding any potential inconsistency or preemption;</p> <p>^(iii) cause to be published in the Federal Register notice of the issue regarding the potential inconsistency or preemption, including a description of each State insurance measure at issue and any applicable covered agreement;</p> <p>^(iv) provide interested parties a reasonable opportunity to submit written comments to the Office;</p> <p>^(v) consider the effect of preemption on--</p> <p>^(I) the protection of policyholders</p>	<p>^(f) Preemption of State Insurance Measures-</p> <p>^(1) STANDARD- A State insurance measure shall be preempted if, and only to the extent that the Director determines, in accordance with this subsection, that the measure--</p> <p>^(A) results in less favorable treatment of a non-United States insurer domiciled in a foreign jurisdiction that is subject to an international insurance agreement on prudential measures than a United States insurer domiciled, licensed, or otherwise admitted in that State; and</p> <p>^(B) is inconsistent with an International Insurance Agreement on Prudential Measures.</p> <p>^(2) DETERMINATION-</p> <p>^(A) NOTICE OF POTENTIAL INCONSISTENCY- Before making any determination under paragraph (1), the Director shall--</p> <p>^(i) notify and consult with the appropriate State regarding any potential inconsistency or preemption;</p> <p>^(ii) cause to be published in the Federal Register notice of the issue regarding the potential inconsistency or preemption, including a description of each State insurance measure at issue and any applicable International Insurance Agreement on Prudential Measures;</p> <p>^(iii) provide interested parties a reasonable opportunity to submit written comments to the Office; and</p> <p>^(iv) consider any comments received.</p> <p>^(B) SCOPE OF REVIEW- For purposes of this subsection, the determination of the Director regarding State insurance measures shall be limited</p>	

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<p>and policy claimants;</p> <p>`(II) the maintenance of the safety, soundness, integrity, and financial responsibility of any entity involved in the business of insurance or insurance operations;</p> <p>`(III) ensuring the integrity and stability of the United States financial system; and</p> <p>`(IV) the creation of a gap or void in financial or market conduct regulation of any entity involved in the business of insurance or insurance operations in the United States; and</p> <p>`(vi) consider any comments received.</p> <p>The Director shall provide the notifications required under clauses (i), (ii), and (iii) contemporaneously.</p> <p>`(B) SCOPE OF REVIEW- For purposes of this section, the Director's determination of State insurance measures shall be limited to the subject matter of the prudential measures applicable to the business of insurance contained within the covered agreement involved.</p> <p>`(C) NOTICE OF DETERMINATION OF INCONSISTENCY- Upon making any determination of inconsistency, the Director shall--</p> <p>`(i) notify the appropriate State of the determination and the extent of the inconsistency;</p> <p>`(ii) establish a reasonable period of time, which shall not be shorter than 90 days, before the determination shall become effective; and</p> <p>`(iii) notify the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate of the inconsistency.</p> <p>`(3) NOTICE OF EFFECTIVENESS- Upon the conclusion of the period referred to in paragraph (2)(C)(ii), if the basis for the determination of inconsistency still exists, the determination shall become effective and the Director shall--</p>	<p><i>to the subject matter contained within the international insurance agreement on prudential measure involved.</i></p> <p><i>`(C) NOTICE OF DETERMINATION OF INCONSISTENCY- Upon making any determination under paragraph (1), the Director shall--</i></p> <p><i>`(i) notify the appropriate State of the determination and the extent of the inconsistency;</i></p> <p><i>`(ii) establish a reasonable period of time, which shall not be less than 30 days, before the determination shall become effective; and</i></p> <p><i>`(iii) notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of the inconsistency.</i></p> <p><i>`(3) NOTICE OF EFFECTIVENESS- Upon the conclusion of the period referred to in paragraph (2)(C)(ii), if the basis for such determination still exists, the determination shall become effective and the Director shall--</i></p> <p><i>`(A) cause to be published a notice in the Federal Register that the preemption has become effective, as well as the effective date; and</i></p> <p><i>`(B) notify the appropriate State.</i></p> <p><i>`(4) LIMITATION- No State may enforce a State insurance measure to the extent that such measure has been preempted under this subsection.</i></p>	

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<p> `(A) cause to be published notice in the Federal Register that the preemption has become effective, as well as the effective date; and `(B) notify the appropriate State. `(4) LIMITATION- No State may enforce a State insurance measure to the extent that it has been preempted under this subsection. </p>		
<p> `(g) Applicability of Administrative Procedure Act- Determinations of inconsistency pursuant to subsection (f)(2) shall be subject to the applicable provisions of subchapter II of chapter 5 of title 5, United States Code (relating to administrative procedure), and chapter 7 of such title (relating to judicial review), except that in any action for judicial review of a determination of inconsistency, the court shall determine the matter de novo. </p>	<p> <i> `(g) Applicability of Administrative Procedures Act- Determinations of inconsistency made pursuant to subsection (f)(2) shall be subject to the applicable provisions of subchapter II of chapter 5 of title 5, United States Code (relating to administrative procedure), and chapter 7 of such title (relating to judicial review). </i> </p>	
<p> `(h) Regulations, Policies, and Procedures- The Secretary may issue orders, regulations, policies and procedures to implement this section. </p>	<p> <i> `(h) Regulations, Policies, and Procedures- The Secretary may issue orders, regulations, policies, and procedures to implement this section. </i> </p>	
<p> `(i) Consultation- The Director shall consult with State insurance regulators, individually and collectively, to the extent the Director determines appropriate, in carrying out the functions of the Office. </p>	<p> <i> `(i) Consultation- The Director shall consult with State insurance regulators, individually or collectively, to the extent the Director determines appropriate, in carrying out the functions of the Office. </i> </p>	
<p> `(j) Savings Provisions- Nothing in this section shall-- `(1) preempt any State insurance measure that governs any insurer's rates, premiums, underwriting or sales practices, or State coverage requirements for insurance, or to the application of the antitrust laws of any State to the business of insurance; `(2) preempt any State insurance measure governing the capital or solvency of an insurer, except to the extent that such State insurance measure directly results in less favorable treatment of a non-United States insurer than a United States insurer; `(3) be construed to alter, amend, or limit the responsibility of the Consumer Financial Protection Agency; `(4) preempt any State insurance measure because of inconsistency with any agreement that is not a covered agreement (as such term in defined in subsection (p)); or `(5) affect the preemption of any State insurance measure otherwise inconsistent with and preempted by Federal law. </p>	<p> <i> `(j) Savings Provisions- Nothing in this section shall-- `(1) preempt-- `(A) any State insurance measure that governs any insurer's rates, premiums, underwriting, or sales practices; `(B) any State coverage requirements for insurance; `(C) the application of the antitrust laws of any State to the business of insurance; or `(D) any State insurance measure governing the capital or solvency of an insurer, except to the extent that such State insurance measure results in less favorable treatment of a non-United State insurer than a United States insurer; `(2) be construed to alter, amend, or limit any provision of the Consumer Financial Protection Agency Act of 2010; or `(3) affect the preemption of any State insurance measure otherwise inconsistent with and preempted by Federal law. </i> </p>	
<p> `(k) Retention of Existing State Regulatory Authority- Nothing in this </p>	<p> <i> `(k) Retention of Existing State Regulatory Authority- Nothing in this </i> </p>	

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<p>section or section 314 shall be construed to establish a general supervisory or regulatory authority of the Office or the Department of the Treasury over the business of insurance.</p>	<p><i>section or section 314 shall be construed to establish or provide the Office or the Department of the Treasury with general supervisory or regulatory authority over the business of insurance.</i></p>	
<p>“(l) Retention of Authority of Federal Financial Regulatory Agencies- Nothing in this section or section 314 shall be construed to limit the authority of any Federal financial regulatory agency, including the authority to develop and coordinate policy, negotiate, and enter into agreements with foreign governments, authorities, regulators, and multi-national regulatory committees and to preempt State measures to affect uniformity with international regulatory agreements.</p>		
<p>“(m) Retention of Authority of United States Trade Representative- Nothing in this section or section 314 shall be construed to affect the authority of the Office of the United States Trade Representative pursuant to section 141 of the Trade Act of 1974 (19 U.S.C. 2171) or any other provision of law, including authority over the development and coordination of United States international trade policy and the administration of the United States trade agreements program.</p>		
<p>“(n) Reports to Congress- “(1) ANNUAL REPORT- Beginning September 30, 2011, the Director shall submit a report on or before September 30 of each calendar year to the President and to the Committees on Financial Services and Ways and Means of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Finance of the Senate on the insurance industry, any actions taken by the office pursuant to subsection (f) (regarding preemption of inconsistent State insurance measures). “(2) OTHER REPORTS- The Director shall submit to the President and the Committees referred to in paragraph (1) any other information or reports as deemed relevant by the Director or as requested by the Chairman or Ranking Member of any of such Committees.</p>	<p><i>“(l) Annual Report to Congress- Beginning September 30, 2011, the Director shall submit a report on or before September 30 of each calendar year to the President and to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the insurance industry, any actions taken by the Office pursuant to subsection (f) (regarding preemption of inconsistent State insurance measures), and any other information as deemed relevant by the Director or as requested by such Committees.</i></p>	
<p>“(o) Use of Existing Resources- To carry out this section, the Office may employ personnel, facilities, and other Department of the Treasury resources available to the Secretary and the Secretary shall dedicate specific personnel to the Office.</p>	<p><i>“(n) Use of Existing Resources- To carry out this section, the Office may employ personnel, facilities, and any other resource of the Department of the Treasury available to the Secretary.</i></p>	
<p>“(p) Definitions- For purposes of this section and section 314, the following definitions shall apply:</p>	<p><i>“(o) Definitions- In this section and section 314, the following definitions shall apply:</i></p>	

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<p>“(1) AFFILIATE- The term ‘affiliate’ means, with respect to an insurer, any person that controls, is controlled by, or is under common control with the insurer.</p> <p>“(2) COVERED AGREEMENT- The term ‘covered agreement’ means a written bilateral or multilateral recognition agreement that--</p> <p> “(A) is entered into between the United States and one or more foreign governments, authorities, or regulatory entities; and</p> <p> “(B) provides for recognition of prudential measures with respect to the business of insurance or reinsurance that achieves a level of protection for insurance or reinsurance consumers that is substantially equivalent to the level of protection achieved under State insurance or reinsurance regulation.</p> <p>“(3) DETERMINATION OF INCONSISTENCY- The term ‘determination of inconsistency’ means a determination that a State insurance measure is preempted under subsection (f).</p> <p>“(4) FEDERAL FINANCIAL REGULATORY AGENCY- The term ‘Federal financial regulatory agency’ means the Department of the Treasury, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Securities and Exchange Commission, the Commodity Futures Trading Commission, the Federal Deposit Insurance Corporation, the Federal Housing Finance Agency, or the National Credit Union Administration.</p> <p>“(5) INSURER- The term ‘insurer’ means any person engaged in the business of insurance, including reinsurance.</p> <p>“(6) NON-UNITED STATES INSURER- The term ‘non-United States insurer’ means an insurer that is organized under the laws of a jurisdiction other than a State, but does not include any United States branch of such an insurer.</p> <p>“(7) OFFICE- The term ‘Office’ means the Federal Insurance Office established by this section.</p> <p>“(8) SECRETARY- The term ‘Secretary’ means the Secretary of the Treasury.</p> <p>“(9) STATE- The term ‘State’ means any State, commonwealth, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, or the United States Virgin Islands.</p>	<p>“(1) AFFILIATE- The term ‘affiliate’ means, with respect to an insurer, any person who controls, is controlled by, or is under common control with the insurer.</p> <p>“(2) INSURER- The term ‘insurer’ means any person engaged in the business of insurance, including reinsurance.</p> <p>“(3) INTERNATIONAL INSURANCE AGREEMENT ON PRUDENTIAL MEASURES- The term ‘International Insurance Agreement on Prudential Measures’ means a written bilateral or multilateral agreement entered into between the United States and a foreign government, authority, or regulatory entity regarding prudential measures applicable to the business of insurance or reinsurance.</p> <p>“(4) NON-UNITED STATES INSURER- The term ‘non-United States insurer’ means an insurer that is organized under the laws of a jurisdiction other than a State, but does not include any United States branch of such an insurer.</p> <p>“(5) OFFICE- The term ‘Office’ means the Office of National Insurance established by this section.</p> <p>“(6) STATE INSURANCE MEASURE- The term ‘State insurance measure’ means any State law, regulation, administrative ruling, bulletin, guideline, or practice relating to or affecting prudential measures applicable to insurance or reinsurance.</p> <p>“(7) STATE INSURANCE REGULATOR- The term ‘State insurance regulator’ means any State regulatory authority responsible for the supervision of insurers.</p> <p>“(8) UNITED STATES INSURER- The term ‘United States insurer’ means--</p> <p> “(A) an insurer that is organized under the laws of a State; or</p> <p> “(B) a United States branch of a non-United States insurer.</p>	

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<p>“(10) STATE INSURANCE MEASURE- The term ‘State insurance measure’ means any State law, regulation, administrative ruling, bulletin, guideline, or practice relating to or affecting prudential measures applicable to insurance or reinsurance.</p> <p>“(11) STATE INSURANCE REGULATOR- The term ‘State insurance regulator’ means any State regulatory authority responsible for the supervision of insurers.</p> <p>“(12) UNITED STATES INSURER- The term ‘United States insurer’ means--</p> <p> “(A) an insurer that is organized under the laws of a State; or</p> <p> “(B) a United States branch of a non-United States insurer.</p>		
<p>“(q) Authorization of Appropriations- There are authorized to be appropriated for the Office such sums as may be necessary for each fiscal year.</p>	<p>“(p) <i>Authorization of Appropriations- There are authorized to be appropriated for the Office for each fiscal year such sums as may be necessary.</i></p>	
<p>“SEC. 314. COVERED AGREEMENTS.</p> <p>“(a) Authority- The Secretary and the United States Trade Representative are authorized, jointly, to negotiate and enter into covered agreements on behalf of the United States</p>	<p>“SEC. 314. INTERNATIONAL INSURANCE AGREEMENTS ON PRUDENTIAL MEASURES.</p> <p>“(a) <i>In General- The Secretary of the Treasury is authorized to negotiate and enter into International Insurance Agreements on Prudential Measures on behalf of the United States.</i></p>	
<p>“(b) Requirements for Consultation With Congress-</p> <p> “(1) IN GENERAL- Before initiating negotiations to enter into a covered agreement under subsection (a), during such negotiations, and before entering into any such agreement, the Secretary and the United States Trade Representative shall jointly consult with the Committee on Financial Services and the Committee on Ways and Means of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Finance of the Senate.</p> <p> “(2) SCOPE- The consultation described in paragraph (1) shall include consultation with respect to--</p> <p> “(A) the nature of the agreement;</p> <p> “(B) how and to what extent the agreement will achieve the applicable purposes, policies, priorities, and objectives of section 313 and this section; and</p> <p> “(C) the implementation of the agreement, including</p>	<p>“(b) <i>Savings Provision- Nothing in this section or section 313 shall be construed to affect the development and coordination of United States international trade policy or the administration of the United States trade agreements program. It is to be understood that the negotiation of International Insurance Agreements on Prudential Measures under such sections is consistent with the requirement of this subsection.</i></p> <p>“(c) <i>Consultation- The Secretary shall consult with the United States Trade Representative on the negotiation of International Insurance Agreements on Prudential Measures, including prior to initiating and concluding any such agreements.’.</i></p>	

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<p>the general effect of the agreement on existing State laws.</p> <p>`(c) Submission and Layover Provisions- A covered agreement under subsection (a) may enter into force with respect to the United States only if--</p> <p> `(1) the Secretary and the United States Trade Representative jointly submit to the congressional committees specified in subsection (b)(1), on a day on which both Houses of Congress are in session, a copy of the final legal text of the agreement; and</p> <p> `(2) a period of 90 calendar days beginning on the date on which the copy of the final legal text of the agreement is submitted to the congressional committees under paragraph (1) has expired.'</p>		
<p>(b) Duties of Secretary- Section 321(a) of title 31, United States Code, is amended--</p> <p> (1) in paragraph (7), by striking `and' at the end;</p> <p> (2) in paragraph (8)(C), by striking the period at the end and inserting `; and'; and</p> <p> (3) by adding at the end the following new paragraph:</p> <p> `(9) advise the President on major domestic and international prudential policy issues in connection with all lines of insurance except health insurance.'</p>	<p><i>(b) Duties of Secretary- Section 321(a) of title 31, United States Code, is amended--</i></p> <p><i>(1) in paragraph (7), by striking `; and' and inserting a semicolon;</i></p> <p><i>(2) in paragraph (8)(C), by striking the period at the end and inserting `; and'; and</i></p> <p><i>(3) by adding at the end the following new paragraph:</i></p> <p><i>`(9) advise the President on major domestic and international prudential policy issues in connection with all lines of insurance except health insurance.'</i></p>	
<p>(c) Clerical Amendment- The table of sections for subchapter I of chapter 3 of title 31, United States Code, is amended by striking the item relating to section 312 and inserting the following new items:</p> <p> `Sec. 312. Terrorism and Financial Intelligence.</p> <p> `Sec. 313. Federal Insurance Office.</p> <p> `Sec. 314. Covered agreements.</p> <p> `Sec. 315. Continuing in office.'</p>	<p><i>(c) Clerical Amendment- The table of sections for subchapter I of chapter 3 of title 31, United States Code, is amended by striking the item relating to section 312 and inserting the following new items:</i></p> <p><i>`Sec. 312. Terrorism and financial intelligence.</i></p> <p><i>`Sec. 313. Office of National Insurance.</i></p> <p><i>`Sec. 314. International insurance agreements on prudential measures.</i></p> <p><i>`Sec. 315. Continuing in office.'</i></p>	
<p>SEC. 8003. REPORT ON GLOBAL REINSURANCE MARKET.</p> <p>Not later than September 30, 2011, the Director of the Federal Insurance Office appointed under section 313(b) of title 31, United States Code (as amended by section 8002(a)(3) of this title) shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban</p>		

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<p>Affairs of the Senate a report describing the breadth and scope of the global reinsurance market and the critical role such market plays in supporting insurance in the United States.</p>		
<p>SEC. 8004. STUDY ON MODERNIZATION AND IMPROVEMENT OF INSURANCE REGULATION IN THE UNITED STATES.</p> <p>(a) Study- The Director of the Federal Insurance Office appointed under section 313(b) of title 31, United States Code (as amended by section 8002(a)(3) of this title) shall conduct a study on how to modernize and improve the system of insurance regulation in the United States. Such study shall include consideration of the following:</p> <ol style="list-style-type: none"> (1) Effective systemic risk regulation with respect to insurance. (2) Strong capital standards and an appropriate match between capital allocation and liabilities for all risk. (3) Meaningful and consistent consumer protection for insurance products and practices. (4) Increased national uniformity through either a Federal charter or effective action by the States. (5) Improved regulation of insurance companies and affiliates on a consolidated basis, including affiliates outside of the traditional insurance business. (6) International coordination. (7) Geographic disparities in access to and cost of insurance products. <p>(b) Report- Not later than 1 year after the date of the enactment of this Act, the Director shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing--</p> <ol style="list-style-type: none"> (1) the results of the study conducted under subsection (a); and (2) any Federal or State legislative, administrative, or regulatory recommendations that the Director considers appropriate with respect to such study to modernize and improve the system of insurance regulation in the United States. <p>(c) Consultation- In carrying out subsections (a) and (b), the Director shall consult with State insurance commissioners, consumer organizations, representatives of the insurance industry, policyholders, and other persons, as the Director considers appropriate.</p>	<p><i>SEC. 502 amending Subchapter I of chapter 3 of subtitle I of title 31, United States Code `SEC. 313. OFFICE OF NATIONAL INSURANCE.</i></p> <p><i>`(m) Study and Report on Regulation of Insurance-</i></p> <p><i>`(1) IN GENERAL- Not later than 18 months after the date of enactment of this section, the Director shall conduct a study and submit a report to Congress on how to modernize and improve the system of insurance regulation in the United States.</i></p> <p><i>`(2) CONSIDERATIONS- The study and report required under paragraph (1) shall be based on and guided by the following considerations:</i></p> <p><i>`(A) Systemic risk regulation with respect to insurance.</i></p> <p><i>`(B) Capital standards and the relationship between capital allocation and liabilities, including standards relating to liquidity and duration risk.</i></p> <p><i>`(C) Consumer protection for insurance products and practices, including gaps in state regulation.</i></p> <p><i>`(D) The degree of national uniformity of state insurance regulation.</i></p> <p><i>`(E) The regulation of insurance companies and affiliates on a consolidated basis.</i></p> <p><i>`(F) International coordination of insurance regulation.</i></p> <p><i>`(3) ADDITIONAL FACTORS- The study and report required under paragraph (1) shall also examine the following factors:</i></p> <p><i>`(A) The costs and benefits of potential Federal regulation of insurance across various lines of insurance (except health insurance).</i></p> <p><i>`(B) The feasibility of regulating only certain lines of insurance at the Federal level, while leaving other lines of insurance to be regulated at the State level.</i></p> <p><i>`(C) The ability of any potential Federal regulation or Federal regulators to eliminate or minimize regulatory arbitrage.</i></p> <p><i>`(D) The impact that developments in the regulation of insurance in foreign jurisdictions might have on the potential Federal regulation of insurance.</i></p>	

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	<p><i>“(E) The ability of any potential Federal regulation or Federal regulator to provide robust consumer protection for policyholders.</i></p> <p><i>“(F) The potential consequences of subjecting insurance companies to a Federal resolution authority, including the effects of any Federal resolution authority--</i></p> <ul style="list-style-type: none"> <i>“(i) on the operation of State insurance guaranty fund systems, including the loss of guaranty fund coverage if an insurance company is subject to a Federal resolution authority;</i> <i>“(ii) on policyholder protection, including the loss of the priority status of policyholder claims over other unsecured general creditor claims;</i> <i>“(iii) in the case of life insurance companies, the loss of the special status of separate account assets and separate account liabilities; and</i> <i>“(iv) on the international competitiveness of insurance companies.</i> <p><i>“(G) Such other factors as the Director determines necessary or appropriate, consistent with the principles set forth in paragraph (2).</i></p> <p><i>“(4) REQUIRED RECOMMENDATIONS- The study and report required under paragraph (1) shall also contain any legislative, administrative, or regulatory recommendations, as the Director determines appropriate, to carry out or effectuate the findings set forth in such report.</i></p> <p><i>“(5) CONSULTATION- With respect to the study and report required under paragraph (1), the Director shall consult with the National Association of Insurance Commissioners, consumer organizations, representatives of the insurance industry and policyholders, and other organizations and experts, as appropriate.</i></p>	
<p>SEC. 8005. SENSE OF CONGRESS REGARDING SIMPLIFIED MORTGAGE CONTRACT SUMMARIES.</p> <p>It is the sense of Congress that mortgage lenders should provide loan applicants with a simplified summary of their loan contracts, including an easy-to-read list of the basic loan terms, payment information, the</p>		

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existence of prepayment penalties or balloon payments, and escrow information.f		