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Staff:
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STATE OF MAINE

Citizen Trade Policy Commission

December 15, 2011

Secretary Tim Geithner
U.S. Department of the Treasury
Federal Insurance Office
MT 1001
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Re: Input on the Report to Congress on How to Modernize and Improve the System of Insurance Regulation in the United States

Dear Secretary Geithner,

We are writing on behalf of the Maine Citizen Trade Policy Commission in response to the Department of Treasury's request for comment on How to Modernize and Improve the System of Insurance Regulation in the United States.

When the Restoring of Financial Stability Act of 2010, later amended in conference committee to the Dodd-Frank Wall Street Reform and Consumer Protection Act, was first proposed, it included provisions that preempted state insurance laws if such laws are perceived to be inconsistent with international trade agreements. At that time, the Commission expressed strong opposition to those provisions in a letter to Senator Dodd (see enclosure).

The Commission maintains its opposition and would like to take this opportunity to encourage the Treasury to recommend against any similar provisions for future insurance regulation. The Commission's letter to Senator Dodd is attached and outlines our rationale for opposition.

Thank you for your consideration.

Sincerely,

Handwritten signature of Roger Sherman in cursive.

Senator Roger Sherman, co-chair

Handwritten signature of Joyce Maker in cursive.

Representative Joyce Maker, co-chair

cc:
Senator Susan M. Collins
Senator Olympia J. Snowe
Representative Michael Michaud
Representative Chellie Pingree
Governor Paul LePage

Citizen Trade Policy Commission
c/o Office of Policy & Legal Analysis
State House Station #13, Augusta, ME 04333-0013 Telephone: 207 287-1670
<http://www.maine.gov/legis/opla/citpol.htm>

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Curtis Bentley, Legislative Analyst

STATE OF MAINE

Citizen Trade Policy Commission

April 16, 2010

The Honorable Christopher J. Dodd, Chairman
Committee on Banking, Housing, & Urban Affairs
United States Senate
448 Russell Senate Office Building
Washington, DC 20510

Re: Restoring American Financial Stability Act of 2010

Dear Senator Dodd:

We are writing on behalf of the Maine Citizen Trade Policy Commission which by unanimous vote today expressed its strong opposition to the Office of National Insurance (ONI), created by Title V, Subtitle A of the Restoring American Financial Stability Act of 2010 (Chairman's Mark, Senate Standing Committee on Banking, Housing, & Urban Affairs). Subtitle A would establish a new federal bureaucracy (ONI) and give one person the power to invalidate state insurance laws that are perceived as "inconsistent with" international agreements.

We are concerned that this legislation bypasses the trade negotiation and implementation process and vests in one person in the Treasury Department the power to preempt validly enacted state laws – without waiting for a specific allegation of a trade violation, and based on a vague and expansive definition of potentially affected trade agreements. All of this would be done without any of the protections provided by the U.S. Constitution when international treaties are negotiated and Congress preempts state law. Disturbingly, even a treaty that has been submitted for ratification and defeated could be considered an "agreement" with preemptive force.

The Maine Citizen Trade Policy Commission (CTPC) is a bipartisan commission established in 2003 to assess and monitor the legal and economic impacts of trade agreements on state and local laws, working conditions and the business environment, and to make policy recommendations to the Legislature and the Governor concerning the impact of trade agreements

and trade-related policies. In our view, the preemption provisions of Subtitle A reach well beyond the scope of current trade policy and constitute an unprecedented intrusion into matters reserved to the states.

We are cognizant that international agreements can have an impact on state policies, and indeed the CTPC has an advisory role within Maine to insure that policy makers are aware of the parameters of trade policy. Subtitle A goes well beyond any trade policy we are aware of and vests within one agency employee the power to sweep aside state insurance laws regulating purely domestic markets, such as licensing laws or laws requiring the use of U.S. statutory accounting principles. Any "international insurance agreement" with a foreign government or regulatory entity (even a non-governmental entity) could be used by this federal employee as the rationale for an action to preempt state-based standards, overturning the actions of state legislatures without resort to the courts or to international trade dispute resolution tribunals.

We urge you to strike the preemption provisions and the authority given to Treasury to negotiate and enter into new international insurance agreements in Title V, Subtitle A.

Thank you for your consideration.

Sincerely,

Senator Troy Jackson, co-chair

Representative Peggy Rotundo, co-chair

cc:

Senator Susan M. Collins
Senator Olympia J. Snowe
Senator Harry Reid
The Honorable Michael Michaud
The Honorable Chellie M. Pingree
Mila Kofman, Superintendent of Insurance
Janet Mills, Attorney General