

September 12, 2018

Dear Representative,

On behalf of Americans for Financial Reform, the Center for Economic Justice, the Consumer Federation of America, and US PIRG, we are writing to urge you to vote in opposition to HR 5059, the “State Insurance Regulation Preservation Act”. HR 5059 creates a new category of “Insurance Savings and Loan Holding Companies” (ISLHCs) and meaningfully restricts Federal Reserve authority to supervise such entities. We fundamentally disagree with this kind of carve-out from consolidated Federal prudential supervision of banking institutions, including those that are subsidiaries of insurance companies.

A major contributor to the 2008 financial crisis was the proliferation of institutions that did not have a clear consolidated regulator, or whose overall regulator was not competent to oversee the prudential risks of the institution. The most glaring example was the American International Group (AIG), a global insurance company that engaged in numerous complex financial transactions involving derivatives and securities lending. These activities were beyond the scope of any single state insurance regulator. The Office of Thrift Supervision (OTS), AIG’s primary Federal regulator, also did not have the capacity to properly monitor them. The losses at AIG were so great that it received the largest taxpayer bailout for a single institution in U.S. history.

The Dodd-Frank Act responded to this regulatory failure by eliminating the OTS and centralizing consolidated supervision of bank and thrift holding companies in the Federal Reserve. HR 5059 moves away from this framework by creating a special class of banking institutions for which Federal Reserve prudential oversight would be limited by statute. The legislation is thus a step backwards toward re-creating the patchwork system of pre-crisis regulation that failed so badly to manage prudential and systemic risk.

A premise beyond HR 5059 is that the state insurance regulatory system should take the lead role in oversight of prudential risks for bank holding companies that do insurance business. We disagree with this premise. The state insurance regulatory system is designed to regulate the business of insurance at the entity (state-level insurance subsidiary) level. While state insurance regulators are working to improve group level supervision, a variety of factors, including fundamental legal restrictions in state law, competition between states for insurance business, and established practices in state insurance regulation make it challenging to conduct effective consolidated supervision through the state level system. The state level system does have unique strengths in oversight of market conduct and consumer protection. But fundamentally we agree with Federal Reserve Chair Jay Powell’s recent testimony on this issue, when he stated:

“the insurance supervisors, they do a fine job of supervising insurance, but they're not prudential regulators of banks. And...we think if you're going to own a bank, you should be subject to regulation by a prudential regulator of banks, which would be us.”

It is true that the current version of HR 5059 has been improved from the initial version of the bill, in that it removes some restrictions on Federal Reserve authority that existed in previous versions. However, we still recommend that you vote against it. This legislation continues to impose statutory requirements on the Federal Reserve for the Board to align recordkeeping, examination, and other prudential supervisory practices with the very different system of state

insurance regulation. (To take just one example of such differences, state insurance regulators have a minimum five year exam cycle while the Federal Reserve examines every 12 to 18 months). Such statutory requirements will create unnecessary hurdles to needed prudential supervision. These statutory restrictions on Federal Reserve consolidated regulation will increase the risks of litigation and delay at times when the Board might need to act forcefully as a prudential supervisor. Particularly in the absence of any showing that current Federal Reserve supervisory activities are unnecessarily duplicative of state insurance regulation, we feel that the statutory changes in HR 5059 are both uncalled for and potentially harmful.

Thank you for your attention.

Sincerely,

Americans for Financial Reform

Center for Economic Justice

Consumer Federation of America

U.S. PIRG