November 20, 2015

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Hensarling:

We write because we intend to initiate negotiations to enter into a covered agreement with the European Union (EU). A covered agreement is a "written bilateral or multilateral agreement regarding prudential measures with respect to the business of insurance or reinsurance." The United States and the EU are the two largest insurance markets in the world and both markets present important opportunities for organic and acquisition-based growth for insurers and reinsurers. A covered agreement with the EU would level the regulatory playing field for U.S.-based insurers and reinsurers operating there, and further confirm that the existing U.S. insurance regulatory system serves the goals of insurance sector oversight, policyholder protection, and national and global financial stability.

The Federal Insurance Office (FIO) Act of 2010 authorizes the Secretary of the Treasury (Treasury) and the United States Trade Representative (USTR) jointly to negotiate a covered agreement with one or more foreign governments, authorities, or regulatory entities. A covered agreement must:

"relate[] to the 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."[5]

In the United States, state insurance regulators have general authority over the business of insurance (including reinsurance). Treasury and USTR support the U.S. integrated system of state and federal insurance regulation, including the primary role of state insurance regulators as supervisors of the business of insurance. Treasury and USTR will not enter into a covered agreement with the EU unless the terms of that agreement are beneficial to the United States.

[5] 31 U.S.C. § 313(r)(2)(B). Moreover, the FIO Act defines the term "substantively equivalent to the level of protection achieved." 31 U.S.C. § 313(r)(9).

State insurance regulators will have a meaningful role during the covered agreement negotiating process.

In particular, covered agreement negotiations with the EU will seek to address the following prudential measures: (1) obtain treatment of the U.S. insurance regulatory system by the EU as "equivalent" to allow for a level playing field for U.S. insurers and reinsurers operating in the EU; (2) obtain recognition by the EU of the integrated state and federal insurance regulatory and oversight system in the United States, including with respect to group supervision; (3) facilitate the exchange of confidential regulatory information between lead supervisors across national borders; (4) afford nationally uniform treatment of EU-based reinsurers operating in the United States, including with respect to collateral requirements; and (5) obtain permanent equivalent treatment for the solvency regime in the United States and applicable to insurance and reinsurance undertakings.

Effective January 1, 2016, the EU will implement insurance regulatory reform (known as "Solvency II") that will subject an insurer to disadvantageous treatment if the insurer's country of domicile is not recognized by the EU as "equivalent" under the provisions of Solvency II. Through negotiating a covered agreement, Treasury and USTR will seek to ensure that U.S. insurers and reinsurers will be permitted to operate in the EU on the same regulatory terms as insurers and reinsurers domiciled in the EU or in jurisdictions deemed equivalent under Solvency II.

The FIO Act provides that Treasury and USTR jointly shall consult with the Financial Services and Ways and Means Committees of the House of Representatives and the Banking, Housing, and Urban Affairs and Finance Committees of the Senate before initiating negotiations of a covered agreement, during such negotiations, and before entering into any such agreement. Treasury and USTR welcome the opportunity to meet with Committee members and staff to consult before we initiate negotiations on this covered agreement and on developments during the negotiations.

Sincerely,

Anne Wall
Assistant Secretary
for Legislative Affairs
Department of the Treasury

Mike Harney
Assistant U.S. Trade Representative
for Congressional Affairs
Office of the U.S. Trade Representative

Identical letter sent to:

The Honorable Maxine Waters
The Honorable Richard Shelby
The Honorable Sherrod Brown
The Honorable Orrin Hatch
The Honorable Ron Wyden
The Honorable Kevin Brady
The Honorable Sander Levin