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Selected Research on Insurance Regulatory Reform: A Descriptive Bibliography

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Abstract: Networks Financial Institute at Indiana State University, a national leader in addressing both ongoing and emerging issues impacting the insurance sector, provides this descriptive bibliography which addresses the myriad issues driving insurance regulation and reform. This resource provides more than 100 resources authored by industry thought leaders representing government, trade associations, the insurance industry, media and academia. This online bibliography of scholarly abstracts, research articles, journal publications, commentaries and proposals surveys the state of the insurance industry and will continue to be updated. As such, it is not a static document. The goal of this bibliography is to provide a comprehensive, "one-stop shop" or clearinghouse for resources relevant to insurance regulatory reform. NFI encourages users to bookmark the site and return periodically to find the latest updates on regulatory reform.

Some of the topics addressed in this bibliography include:

- Varied perspectives on the case for interstate insurance choice
- Dual regulation and its impact on market competition
- The implications of an Optional Federal Charter for consumer protection versus market efficiencies
- Making state regulation more efficient and effective
- Rate regulation and its impact on market pricing and claims
- Regulating the market for Terrorism Insurance
- Frequently-asked-questions regarding optional federal charters
- Regulatory impact on competitiveness in a global market
- Managing insurer insolvencies
- Health insurance reform
- The U.S. Department of the Treasury's blueprint for a modernized regulatory structure

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Selected Research on Insurance Regulatory Reform: A Descriptive Bibliography

Abramovsky, A. (2008). "Reinsurance: The Silent Regulator?" The Searle Center on Law, Regulation, and Economic Growth at Northwestern University School of Law Research Symposium on Insurance Markets and Regulation, April 14-15. http://www.law.northwestern.edu/searlecenter/papers/Abramovsky_Reinsurance.pdf

This essay suggests that the regulation of insurance should include considerations of the effect reinsurance may have on the behavior of insurers. Reinsurance realities have the capacity to misdirect insurance regulatory assumptions if not included in a holistic examination of the field. Though reinsurance is effectuated by private contract, those contracts have the potential for regulatory effect sufficient enough to suggest a positive answer to the question of whether reinsurance may correctly be termed a "silent regulator."

American Council of Life Insurers and Computer Sciences Corporation (2005). *Economic Impact of an Optional Federal Charter on the Life Insurance Industry A Survey of Leading U.S. Insurance Companies*. July. <http://www.acli.com/NR/rdonlyres/A3639610-AB15-48E2-8499-E89FE7415B1A/5320/CSCReport2.pdf>

This joint study by ACLI and Computer Sciences Corporation (CSC) involved conducting individual interviews and focus groups with industry executives, followed by a survey of the industry to gather quantitative data regarding regulatory costs. The study revealed several important points:

- (1) Regulatory cost is a major part of a life insurer's cost structure.
- (2) A life insurance carrier's regulatory expenses typically cover far more than fees.
- (3) There is significant opportunity for improvement.
- (4) Industry-wide regulatory cost should not increase under an OFC.
- (5) OFC Uniform Product Approval and Producer Certification Rules have the most impact.
- (6) Under an OFC, the level of competition for the consumer's insurance dollar should increase.

Andrews, N. (2008). "The Case for Interstate Insurance Choice: Why Creating National Markets for Property and Casualty Insurance and Health Insurance Will Help Insurers and Consumers." Competitive Enterprise Institute. March 13. http://cei.org/cei_files/fm/active/2/Ned%20Andrews%20-%20PCCCA%20-%20FINAL.pdf

Coverage mandates and laws requiring insurers to participate in residual markets distort the realities of the insurance marketplace. Though promoted as a way to make sure that people at high risk can buy insurance, coverage mandates also

force consumers to buy insurance, often at above-market rates or for risks they do not face. Interstate insurance choice offers a feasible solution to the market distortions and high costs that these requirements impose on both insurers and consumers.

Bair, S. (2004). *Consumer Ramifications of an Optional Federal Charter for Life Insurers: A Report by the University of Massachusetts Isenberg School of Management*. March.
<http://www.isenberg.umass.edu/finopmgt/uploads/textWidget/2494.00004/documents/bair-cons-ramifications.pdf>

This research suggests that the current multi-state system is structurally resistant to needed reforms, even in the face of broad consensus that greater uniformity and centralization is needed in the oversight of life insurance products. The NAIC's proposed Interstate Compact has the potential to circumvent some of the bureaucratic impediments to uniformity in product approval standards; however, while this innovative proposal has been making progress, its fate is uncertain. As a consequence, this report concludes that federal action is necessary to prompt needed improvements in the regulation of life insurance.

Bell, W. (2007). "NAIC President Walter Bell's Remarks to the NFI 4th Annual Insurance Reform Summit." Networks Financial Institute *Policy Brief* 2007-PB-06. March.
http://www.networksfinancialinstitute.org/Lists/Publication%20Library/Attachments/12/2007-PB-06_Bell.pdf

The National Association of Insurance Commissioners (NAIC) and insurance commissioners are engaged in an ongoing, dynamic process to retool and enhance insurance supervision to protect consumers while better meeting the needs of the evolving financial marketplace. Underlying all of NAIC's progress is the common commitment among all state officials that states must modernize without sacrificing the strong consumer protections that have made state supervision of insurance successful and effective. Operational efficiencies must enhance—rather than supplant—consumer protection. And companies need to be willing to work with policymakers and consumers to find new ground rather than merely defend old turf. The NAIC will continue to make strides to modernize the state system. The NAIC also stands committed to work with Congress and the Administration as they engage a full-slate of insurance issues in the months and years ahead.

Born, P. and M. M. Boyer (2008). "Risk Retention Groups in Medical Malpractice Insurance: A Test of the Federal Chartering Option." The Searle Center on Law, Regulation, and Economic Growth at Northwestern University School of Law Research Symposium on Insurance Markets and Regulation, April 14-15.
http://www.law.northwestern.edu/searlecenter/papers/Born_Boyer_final.pdf

The liability crisis of the eighties led to the enactment of the federal Liability Risk Retention Act of 1986, which encouraged the formation of risk retention groups, a new organizational form that is incorporated under a federal charter. This study uses risk retention groups as a proxy for insurers opting for a federal charter and assesses empirically the economic viability of an optional federal charter. It considers the insurers' use of two different types of insurance contracts and evaluates the benefits to policyholders and society of insurers having access to an optional federal charter.

Brown, E. F. (2008). "The Fatal Flaw of Proposals to Federalize Insurance Regulation." The Searle Center on Law, Regulation, and Economic Growth at Northwestern University School of Law Research Symposium on Insurance Markets and Regulation, April 14-15.
http://www.law.northwestern.edu/searlecenter/papers/Brown_final.pdf

Some members of the insurance industry see these efforts to federalize insurance regulation as a means of eliminating the problems in the current state system, which they view as costly, cumbersome and confusing. Both opponents and proponents of federalizing insurance have discussed insurance as if was a completely "unique" financial service, but insurance today it is part of a continuum of financial services and products that are increasingly fungible with one another. None of the current proposals to federalize insurance recognizes the extent to which the boundaries between insurance products and other financial services products have disappeared. This article discusses three alternative structures that would place the regulation of insurance in the context of the evolving financial services industry.

Brunet, A. (2008). "Regulating the Market for Terrorism Insurance." The Searle Center on Law, Regulation, and Economic Growth at Northwestern University School of Law Research Symposium on Insurance Markets and Regulation, April 14-15.
http://www.law.northwestern.edu/searlecenter/papers/Brunet_TRIA_final.pdf

In the aftermath of the terrorist attacks of 9/11, an important public policy question arose as to whether, and how, the federal government should intervene to provide a temporary "backstop" for property-casualty terrorism risk insurance. The Terrorism Risk Insurance Act of 2002 (TRIA) was renewed in 2005 and reauthorized in 2007. This paper suggests that continued regulation beyond the reauthorization's expiry of December 31, 2014 may be necessary due to insurability and/or capacity concerns; however, any extension of the legislation will have to address concerns with TRIA's interference with price-setting and normal incentives created by functioning insurance markets. This paper contributes to the literature on terrorism risk insurance by focusing regulation's disincentive to mitigate post-event insurance losses by increasing moral hazard and risk-taking by businesses.

Butler, H. N., and L. E. Ribstein (2008). "A Single-License Approach to Regulating Insurance." The Searle Center on Law, Regulation, and Economic Growth at Northwestern University School of Law Research Symposium on Insurance Markets and Regulation, April 14-15.
http://www.law.northwestern.edu/searlecenter/papers/Butler_Ribstein_final.pdf

State regulation of insurance companies has been criticized because of the burden imposed on insurers by having to comply with the laws of many jurisdictions. However, all proposals to federalize insurance regulation create opportunities for abuse at the hands of the federal government and fail to utilize the benefits of a federal system. This article shows how many of the problems of the current system can be addressed without resorting to a large scale intrusion of federal regulators into insurance markets. This single-license approach addresses the most salient concerns of proponents of federal optional chartering and may trigger competition and innovation in insurance products and rates while preserving a meaningful role for state regulation.

Butler, H. N., and L. E. Ribstein (2008). "The Single-License Solution." *Regulation* 31.4 (Winter): 36-42. <http://www.cato.org/pubs/regulation/regv31n4/v31n4-6.pdf>

The authors addresses the need to introduce efficient state regulation of insurance companies in the U.S. Due to problems concerning state regulation, several insurers have proposed for the federalization of insurance regulation. One consideration is the optional federal chartering (OFC) of multi-state insurance firms. A single-license solution, contrary to the OFC, would provide 50 licensing options for these insurers. It is stated that insurance regulation aims to protect consumers from unsound contracts.

Cobb, C. (2003). "Optional Federal Chartering for Insurers: History and Background of Insurance Regulation." Congressional Research Service Report to Congress RL31982. June 3. http://assets.opencrs.com/rpts/RL31982_20050211.pdf

Members of Congress and various interest groups have put forward ideas including a full-scale federal insurance regulator, an optional federal charter, and a federally mandated, but state controlled, harmonization of state regulation. Proponents of federal involvement have argued that the current system puts insurers at a significant disadvantage in competing with other financial institutions, both nationally and internationally, who have more streamlined regulatory systems. Opponents have argued that the federal option is unnecessary and would weaken consumer protection. This report provides the historical background for examining the arguments in this debate. It shows that state regulation of insurance is largely a historical artifact, that Congress has become increasingly involved in both regulating insurance and overseeing states' regulation of insurance, and that the National Association of Insurance Commissioners has assumed a national role.

Colquitt, L. L., D. W. Sommer and N. H. Godwin (2005). “An Empirical Analysis of Life Insurer State Licensing Choices.” *Journal of Insurance Regulation* 24.2 (Winter).

This study examines the state licensing choices of life insurers, given the ongoing debate regarding an optional federal charter for insurers. The results suggest that while the proposed optional federal charter would assist insurers in the licensing process, it would only have a modest impact on the competitiveness of the insurance markets in most states.

Commission on the Regulation of U.S. Capital Markets in the 21st Century (2007).

Report and Recommendation. U.S. Chamber of Commerce. March.

http://www.capitalmarketscommission.com/NR/rdonlyres/eozwwsfrqzdm3hd5siogqhp6h2ngxwdpr77qw2bogptzvi5weu6mmi4plfq6xic7kjonfpg4q2bpks6ryog5wh5sc/0703capmarkets_full.pdf

Based on input from academics, institutional investors, former regulators, venture capitalists, investment bankers, labor leaders, exchange officials, entrepreneurs, current and former regulators and executive branch and Congressional officials, the Commission has issued recommendations to further the competitiveness of U.S. capital markets, the development of capital sources for business expansion and job creation, and the protection of the investors whose savings contribute so importantly to capital formation. Principal Recommendations include reform and modernization of the federal government’s regulatory approach to financial markets and market participants, including the insurance sector.

Competitive Enterprise Institute (2008). “Optional Federal Chartering FAQ.”

<http://www.ofcfaq.org/>

The Optional Federal Charter FAQ lists a series of questions that the Competitive Enterprise Institute (CEI) has encountered from insurance industry representatives, staffers and think tanks and provides CEI’s answers to those questions.

Cooke, J. A. and H. D. Skipper (2008). “An Evaluation of U.S. Insurance Regulation in a Competitive World Insurance Market.” American Enterprise Institute Conference on the Future of Insurance Regulation, July 9.

http://www.rmi.gsu.edu/insurance_regulation/rel_papers/CookeSkipper_RegulationInternational.pdf

Charges that U.S. insurance regulation acts as a barrier to entry and discriminates unfairly against foreign insurers have been voiced for many years by U.S. trading partners. The effects of these barriers and discrimination are said to result in a less competitive and robust national insurance market. Simultaneously, many U.S. insurers believe that they are hampered in international competition by the U.S. regulatory system and that other countries justify their own trade barriers against

them because of the difficulties that U.S. regulation impose on foreign insurers. This paper addresses these and related issues in the context of the Optional Federal Charter (OFC) proposal.

Cummins, J.D. (2002). *Deregulating Property-Liability Insurance: Restoring Competition and Increasing Market Efficiency*. May. Washington, DC: American Enterprise Institute-Brookings Institution Joint Center for Regulatory Studies. <http://aei-brookings.org/admin/authorpdfs/redirect-safely.php?fname=../pdffiles/cummins.pdf>

Over the past two decades, the United States has successfully deregulated prices and moved entry barriers in most previously regulated industries; only a few industries remain regulated, one of the largest being the property-liability insurance business. This volume examines the basis for continued regulation of rates and forms of the U.S. property-liability insurance market, focusing on private passenger automobile insurance—the most important personal line of property-liability coverage, with annual premiums of about \$120 billion. The contributors present five state case studies: California, Massachusetts, and New Jersey—three of the most heavily regulated states—as well as Illinois, which has been deregulated for about 30 years, and South Carolina, which began to deregulate in 1997. The book also includes an econometric analysis based on all 50 states over a 25-year period, gauging impact of regulation on insurance price levels, price volatility, and the proportion of automobiles insured in residual markets. In addition, it includes an analysis of the welfare effects of commercial lines contract regulation and an overview chapter relating developments in insurance markets to the economic theory of regulation.

Cummins, J. D. (2007). "Reinsurance for Natural and Man-Made Catastrophes in the United States: Current State of the Market and Regulatory Reforms." June. http://papers.ssrn.com/sol3/papers.cfm?abstract_id=997928#PaperDownload

U.S. insurers are heavily dependent on global reinsurance markets to enable them to provide adequate primary market insurance coverage. This paper reviews the response of the world's reinsurance industry to recent mega-catastrophes and provides recommendations for regulatory reforms that would improve the efficiency of reinsurance markets. The paper also considers the supply of insurance and reinsurance for terrorism and makes recommendations for joint public-private responses to insuring terrorism losses. The analysis shows that reinsurance markets responded efficiently to recent catastrophe losses and that substantial amounts of new capital enter the reinsurance industry very quickly following major catastrophic events.

Danzon, P. M. and S. E. Harrington (2001). "Workers' Compensation Rate Regulation: How Price Controls Increase Costs." *Journal of Law and Economics* 44.1 (April): 1-36. <http://www.journals.uchicago.edu/doi/abs/10.1086/320270>

In the 1980s, regulation constrained workers' compensation insurance premiums in the face of rapid growth in loss costs. The authors develop and test the hypothesis that rate suppression exacerbates loss growth, leading to higher losses and premiums. The empirical analysis using rating class data for eight states for the period 1985-91 confirms that rate suppression, measured by lagged residual-market share of payroll, increased loss growth. The cost-increasing effects are greater in the residual market than in the voluntary market, but premiums increased more rapidly in the voluntary market. The resulting pattern of cross subsidies between and within classes is consistent with a simple model of political influence, with subsidies to high risks and small firms at the expense of low risks and insurer equity.

Derrig, R. A. and S. Tennyson (2008). "The Impact of Rate Regulation on Claims Evidence from Massachusetts Automobile Insurance." Casualty Actuarial Society, 2008 Discussion Paper.

<http://www.casact.org/pubs/dpp/dpp08/08dpp1.pdf>

The article tests the hypothesis that insurance price subsidies lead to higher insurance cost growth, making use of data from the Massachusetts private passenger automobile insurance market. Two approaches were taken to study the potential loss cost reaction to the Massachusetts cross-subsidies, 1977-2007. The first approach compared Massachusetts to all other states on demographic, regulatory and liability coverage levels. A second approach considered changing cost levels across Massachusetts by studying loss cost changes by town and relating those changes to subsidy providers and subsidy receivers. Subsidy data showed a significant and positive (relative) growth in loss costs for towns that were subsidy receivers in line with the theory of underlying incentives for adverse selection and moral hazard.

Detlefsen, R. (2008). "Potential Consequences of Dual Insurance Chartering." American Enterprise Institute Conference on the Future of Insurance Regulation, July 9.

http://www.rmi.gsu.edu/insurance_regulation/rel_papers/Detlefsen_paper_6-08-08.pdf

This paper critically examines the proposition that an optional federal charter (OFC) would bring needed reforms to property-casualty insurance regulation. The *sine qua non* of an OFC is regulatory competition—the notion that by offering insurers the choice of being regulated under the existing state-based regulatory system or by a newly-created federal regulatory agency, an OFC would foster jurisdictional competition that would lead to the development of market-oriented insurance regulatory regimes at both the state and federal levels. The paper identifies several factors that suggest that the likelihood of such regulatory competition under an OFC is remote. The paper argues that property-casualty insurance differs from other financial services in that it is inherently susceptible to regulation driven by egalitarian ideology and political opportunism.

Economist.com (2006). "American Exceptionalism: The World's Biggest Insurance Market is Too Splintered." *Economist* August 10.
http://www.economist.com/finance/PrinterFriendly.cfm?story_id=7282822.

In an increasingly global insurance market, America's state-based insurance regulatory system is coming under strong pressure to reform. Though a fiercely political issue, congressional support for simplifying the system is gaining ground. Both houses of Congress are looking at proposals to change the state-based system. Big insurers favor a version that would implement an optional federal charter allowing them to bypass the state-by-state regulatory process if they choose. Proponents of the changes see more efficiency, an ability to roll out products more quickly nationally and, ultimately, better offerings for consumers as a result. Yet some consumer groups favor state-based regulation.

Economist.com (2006). "Time for a Makeover: America Should Ditch Its Outdated System of Insurance Regulation." *Economist* August 10.
http://www.economist.com/opinion/displaystory.cfm?story_id=E1_SNSGJJV

Insurance reform proposals before Congress and the industry's leading groups deserve serious consideration. Although the sophistication of insurers' underwriting and risk management has advanced in modern times, the regulation of the American market is rooted in a 19th century system of state oversight.

Elderfield, M. (2009). "Solvency II: Setting the Pace for Regulatory Change." *Geneva Papers on Risk & Insurance – Issues and Practices* 34.1 (January): 35-41.

The international regulatory environment for the insurance sector is experiencing an intense period of change. The issue of maintaining compliance with international standards has become an increasing priority for insurance regulators worldwide. In recent years the movement toward the global standardization of insurance regulation has gained momentum, as the industry itself has become more globalized. The significant market turmoil over the past year that has had worldwide impact on the financial sector has added another complex dimension to this environment. This paper argues that there are three key regulatory trends that will impact the insurance industry in the short- to medium-term, based on two underlying key drivers of regulatory change over this time horizon. These drivers can be put simply and should be no surprise. They are: first, Solvency II and second, subprime.

England, C. (2005). *Federal Insurance Chartering, The Devil's in the Details*. Competitive Enterprise Institute. January 9. <http://cei.org/pdf/4358.pdf>

Of all the financial services firms in the United States, only insurance companies lack a federal regulator. There are several reasons for the industry's sudden interest in optional federal regulation. Concern about efficient insurance regulation does not end with the executives and owners of the insurance

companies. Policyholders, taxpayers and policymakers also have an interest in creating an insurance regulatory system that encourages competition, innovation, and financial stability. This requires an “incentive compatible” system in which regulators, whether state or federal, balance the multi-faceted interests of insurance company owners and their customers, as well as taxpayers. This study neither supports nor opposes a federal oversight option for the insurance industry.

Fitzpatrick, S. M. (2006). "The Small Laws: Eliot Spitzer and the Way to Insurance Market Reform." *Fordham Law Review* 74: 3041-3071.

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=877488#PaperDownload

In 2004, Marsh & McLennan was accused of defrauding customers by rigging bids to maximize its own profits. In addition to its bid-rigging charges, New York State Attorney General Eliot Spitzer's suit against Marsh challenged insurers' practice of paying insurance brokers and agents additional compensation contingent on their sales volume and the profitability of their risks. Rather than promoting competition, an industry-wide ban on contingent compensation might instead undermine the financial stability of small insurance agencies in communities throughout America. This article (i) traces the history of Attorney General Spitzer's investigation into insurance market practices, (ii) offers an overview of producer compensation practices as they have evolved in the U.S. P&C market, (iii) outlines recent regulatory and legislative responses to the Spitzer investigation, and (iv) suggests a simple, voluntary reform that would increase transparency for insurance consumers while avoiding the pitfalls likely to attend more draconian solutions.

Government Accountability Office (2006). “Definitions of Insurance: Presentation for Committee on Financial Services, U.S. House of Representatives.” GAO-06-424R February 23. <http://www.gao.gov/new.items/d06424r.pdf>

This report provides information on (1) the elements that are commonly part of definitions of insurance, (2) a few products not universally defined as insurance or regulated across the states by their insurance departments, (3) possible regulatory implications of developing separate definitions for insurance products covering insurance risks in more than one category, (4) current developments in statutory and financial accounting communities in re-evaluating their guidelines for measuring risk transfer in reinsurance contracts, and (5) certain circumstances when finite risk contracts are used.

Government Accountability Office (2004). *Financial Regulation: Industry Changes Prompt Need to Reconsider U.S. Regulatory Structure*. Report to the Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate. October. <http://www.gao.gov/new.items/d0561.pdf>

This report describes the changes to the financial services industry, focusing on banking, securities, futures, and insurance; the structure of the U.S. and other

regulatory systems; changes in regulatory and supervisory approaches; efforts to foster communication and cooperation among U.S. and other regulators; and the strengths and weaknesses of the current regulatory structure.

Grace, M. F. (2009). "A Reexamination of Federal Regulation of the Insurance Industry." Networks Financial Institute *Policy Brief* 2009-PB-02. February. http://www.networksfinancialinstitute.org/Lists/Publication%20Library/Attachments/131/2009-PB-02_Grace.pdf

The Optional Federal Chartering (OFC) proposal introduced in the last session of Congress may have been the right bill for the introduction of federal regulation of the insurance industry at the turn of the 20th century. However, the current OFC proposal shows its 19th century roots as it merely copies the banking industry's dual chartering provision and various aspects of state insurance regulatory law. This paper critiques the issue of federal regulation, not necessarily from the perspective of whether federal regulation dominates state regulation, but as to the proper subject matter if regulation which accomplishes the welfare enhancing goals of minimizing the effects of potential market or regulatory failures.

Grace, M. F. and R. D. Phillips (2007a). "The Allocation of Governmental Regulatory Authority: Federalism and the Case of Insurance Regulation." *Journal of Risk & Insurance* 74.1 (March): 207-238.

The authors investigate the incentive states have to provide insurance regulatory services in an efficient manner. Consistent with predictions from the federalism literature, the study finds evidence of trans-state externalities, as states with small domestic insurance markets are less efficient producers of insurance regulation and appear to allow states that choose to expend the greatest resources to regulate for them. States with more profitable domestic insurers are shown to export greater levels of regulation.

Grace, M. F. and R. D. Phillips (2007b). "Regulator Performance, Regulatory Environment and Outcomes: An Examination of Insurance Regulator Career Incentives on State Insurance Markets." February 21. http://papers.ssrn.com/sol3/papers.cfm?abstract_id=908984#PaperDownload

This paper tests whether the past or future labor market choices of insurance commissioners provide incentives for regulators in states with price regulation to either favor or oppose the industry by allowing prices that differ significantly from what would otherwise be the competitive market outcome. For 1985-2002, the authors find no evidence that consumers in prior approval states paid significantly different "unit prices" for insurance than consumers in states that allow competitive market forces to determine equilibrium price. However, this paper finds evidence that regulators who seek higher elective office following

their tenure as insurance commissioner allow higher overall "unit prices" relative to competitive market states.

Grace, M. F. and R. W. Klein (2008a). "The Effects of an Optional Federal Charter for Life Insurers on State Economies." American Council of Life Insurers. February 12. <http://www.acli.com/NR/rdonlyres/6DA9DD42-3E9B-45BC-951B-85B0699A1EB1/13112/OFCStateStudyFINAL2.pdf>

This report examines the likely effects of an Optional Federal Charter (OFC) on state economies, concluding that a life insurance OFC may have a beneficial effect on many state economies and any negative effects are likely to be confined to a few states if any. Either way, the economic effects of an OFC are likely to be limited. Despite the importance of the life insurance industry, it still tends to account for a relatively small fraction of the economic activity in states which necessarily limits the impact of any regulatory change.

Grace, M. F. and R. W. Klein (2008b). "The Effects of an Optional Federal Charter on Competition in the Life Insurance Industry." Georgia State University Department of Risk Management and Insurance. <http://rmictr.gsu.edu/Papers/RR07-1.pdf>

It is only within the last two decades that a significant segment of the insurance industry has come to favor federal regulation over the current state-based system. At the same time, the states and other segments of the industry strongly oppose federal regulation, even if it is optional for insurers and intermediaries. This paper reviews how the organization of the industry has changed and discusses key factors pertinent to the push for reform and its merits. It also examines the current system for insurance regulation and recent state initiatives that are important in considering the need for and implications of alternative frameworks. Finally, an array of proposed or potential institutional structures for insurance regulation is outlined to identify the options available to policymakers.

Grace, M. F. and R. W. Klein (2008c). "Insurance Regulation: The Need for Policy Reform." American Enterprise Institute Conference on the Future of Insurance Regulation, July 9. http://www.rmi.gsu.edu/insurance_regulation/rel_papers/GraceKlein_Reform_7-5-08.pdf

This paper discusses needed reforms of many current insurance regulatory policies to reduce costs and promote more efficient markets. Policy reforms are warranted regardless of how the institutional framework for insurance regulation evolves, recognizing that the prospects for reforms may vary with the institutional structure that is established. An evaluation of insurance regulatory policies is valuable to guide both federal and state authorities as institutions change. The authors identify and evaluate the most significant policies in the principal areas of

financial oversight, market regulation and antitrust and comment on the prospects for reforms under different frameworks.

Grace, M. F. and R. W. Klein (2008d). “The Past and Future of Insurance Regulation: The McCarran-Ferguson Act and Beyond.” The Searle Center on Law, Regulation, and Economic Growth at Northwestern University School of Law Research Symposium on Insurance Markets and Regulation, April 14-15.
http://www.law.northwestern.edu/searlecenter/papers/Grace-Klein_McCaran_Ferguson_Act-final.pdf

This paper examines the system of insurance regulation in the U.S. and how it might evolve in the future given its political-economic environment and proposals for increasing the role of the federal government. States’ regulatory authority has been reaffirmed over its history, including the passage of the McCarran-Ferguson Act (MFA) in 1945 (which includes a limited antitrust exemption). An OFC would modify antitrust law for insurers. Further, the industry and many academics advocate the reform of insurance regulatory policies. We discuss reform proposals and their prospects for enactment and the implications of modifying insurance antitrust law.

Grace, M. F., R. W Klein and R. D. Phillips (2002). “Managing the Cost of Property-Casualty Insurer Insolvencies in the U.S.” Georgia State University. Center for Risk Management and Insurance. December.
http://www.rmi.gsu.edu/insurance_regulation/rel_papers/RS_Report_Final.pdf

This examination reveals several aspects of the U.S. insurer receivership system that contribute to higher insolvency costs. The authors discuss a number of specific problems with the receivership system that arise from several basic structural flaws. These include the selection and management of receivers and receiverships; the protection of claimholder interests; communication, cooperation and coordination between guaranty associations and domiciliary and non-domiciliary states; guaranty association structures; and issues of liquidity versus alternative resolutions.

Harrington, S. (2006a). “Federal Chartering of Insurance Companies: Options and Alternatives for Transforming Insurance Regulation.” Networks Financial Institute *Policy Brief* 2006-PB-02. March.
http://www.networksfinancialinstitute.org/Lists/Publication%20Library/Attachments/36/2006-pb-02_Harrington.pdf

This paper provides an overview of the rationale and options for federal intervention in insurance regulation. A transformation of insurance regulation to reduce burdens by promoting healthy price and product competition and eliminating regulatory micromanagement of price and product decisions will not be achieved without federal intervention. A well-designed system of optional federal chartering and regulation represents one means for attempting to achieve

such a transformation. Two alternatives for transforming insurance regulation include: (1) enact minimum federal standards for state insurance regulation that would preempt non-conforming state regulation, and (2) allow life, health, and property/casualty insurers to designate a “primary state,” and to operate nationwide subject primarily to the regulations of that state.

Harrington, S. (2006b). “Insurance Rate Deregulation.” Prepared for the Conference on Rate Deregulation and Consumers, American Enterprise Institute, September 21. http://www.aei.org/events/eventID.1397/event_detail.asp (View Harrington Minitab in this URL).

This paper provides an overview of rate regulation and deregulation in the property/casualty insurance industry based on the sizable literature on the subject. While the insurance industry remains heavily regulated in the United States, there is growing pressure to modernize insurance regulation to reduce regulatory constraints and rely more on competition to promote efficiency and protect consumers. Debate on the efficiency of state regulation has focused on the direct and indirect costs of regulation of rates, policy forms, and producer licensing, including the substantial elimination of rate regulation. Optional chartering would allow an insurance company to be regulated by the federal government, probably by a new office in the U.S. Treasury, instead of being subject to individual state regulation.

Harrington, S. (2006c). “Perspectives on Insurance Regulation: Statement to the Senate Committee on Banking, Housing and Urban Affairs.” July 18. <http://banking.senate.gov/public/files/harrington.pdf>

Despite a number of positive and incremental reforms in state insurance regulation during the past decade, several key aspects of state insurance regulation, including regulation of rates, rate classification, and policy forms, remain substantially dysfunctional in many states. A transformation of insurance regulation is necessary to promote healthy price and product competition and to eliminate regulatory micromanagement of price and product decisions, and such transformation cannot be achieved without federal intervention. This statement elaborates on the key shortcomings in state insurance regulation, examines potential benefits, risks, and design issues for optional federal chartering, and discusses alternative modes of federal intervention that might redress state regulation’s problems without creating a federal regulator.

Harrington, S. and P. M. Danzon (2001). “Rate Regulation, Safety Incentives, and Loss Growth in Workers' Compensation Insurance.” *Journal of Business* 73.4 (October): 569-595. <http://www.journals.uchicago.edu/doi/pdf/10.1086/209655>

The authors analyze the relationship between insurance rate regulation, inflationary cost surges, and incentives for loss control using state-level data on workers' compensation insurance for 24 states during 1984-90. Regulators often

responded to rapid loss growth during this period by denying rate increases or approving increases that were less than initially requested by insurers. This study tests whether rate suppression increased loss growth by distorting incentives for loss control. Regressions indicate a positive and statistically reliable relationship between loss growth and lagged measures of regulatory price constraints, suggesting that rate regulation increased the frequency and/or severity of employee injuries.

Higman, T. M., J.B. Auden and C.J. Crosson (2008). "Optional Federal Charter: Will Treasury Support Promote Passage?" Fitch Ratings – Insurance: U.S. and Canada Special Report. May 13.

http://fitchratings.com/corporate/reports/report_frame.cfm?rpt_id=386250

Debate surrounding Optional Federal Charter (OFC) regulation for insurance companies has begun in earnest again. While congressional legislation has been introduced multiple times, its prospects for passage had always been slim. Recently the U.S. Department of Treasury (Treasury) brought the issue top the forefront through its broad plan to modernize the regulatory structure of the U.S. financial services industry in response to the current capital markets crisis. The Treasury supports an OFC and set forth general guidelines regarding the basic elements it believes any legislation should contain. Fitch believes increased federal regulation of the insurance industry is inevitable in the long term. Still, Fitch does not expect passage of any OFC legislation in the near term due to continued strong opposition from several influential constituencies, election-year uncertainties and continued divisiveness in Washington.

Hofmann, M.A. (2008). "Optional federal charter unlikely in near term: Report" BusinessInsurance.com. May 14. <http://www.businessinsurance.com/cgi-bin/news.pl?newsId=12967&bt=optional+federal+charter++Hofmann>

While increased federal insurance regulation is "inevitable," the chances of legislation creating an optional federal charter for insurers are slim in the near term, according to a report released by Fitch Ratings on May 13, 2008.

Hughes, G. and V. E. Fimea (2003). "The Optional Federal Charter is the Future of Insurance Regulation in the United States." *Journal of Insurance Regulation* 22.1 (Fall). http://www.naic.org/documents/store_jir_toc.pdf

This article presents an in-depth review of the American Council of Life Insurers' (ACLI) proposal for a national insurance charter. This article addresses many of the concerns that have been expressed over this concept and argues for a new regulatory paradigm to meet today's evolving financial services marketplace.

Hunter, J. R. (2008). *State Automobile Insurance Regulation: A National Quality Assessment and In-Depth Review of California's Uniquely Effective Regulatory*

System. Consumer Federation of America. April.
http://www.consumerfed.org/pdfs/state_auto_insurance_report.pdf

To provide an objective analysis of the impact of regulation on consumers, the Consumer Federation of America (CFA) undertook a study of automobile insurance regulation in all 50 states and the District of Columbia. The report focused on auto insurance since nationally it represents 74.6 percent of the property/casualty insurance market known as “personal lines.” The rest of personal lines is made up largely of homeowner’s insurance, which we decided not to analyze because the homeowner’s line of insurance, which is also high-volume, has been troubled with huge hurricane losses, which distorts results over the time period studied. The report tests several factors related to insurance regulation that are most important to consumers. First, the report analyzes how rate regulatory systems perform in holding down prices. The report also assesses how regulatory systems enhance or impede vigorous competition by many market participants. Finally, the report evaluates how the systems worked regarding insurer profits.

Hyman, D. A. (2008). "Health Insurance: Market Failure or Government Failure?" University of Illinois Law & Economics Research Paper No. LE08-003.
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1087830#PaperDownload

Health insurance reform proposals are being pushed by the usual suspects. The reform proposals vary in their specificity, but all (either implicitly or explicitly) identify the source of the problem as market failure - and promise new regulations and more taxes to fix the problem. This article makes the case that government failure should occupy center-stage in understanding how things came to look the way they do. Rather than market failure, it is inefficient and perverse regulation of health insurance that should be the focus of regulatory reform.

Insurance Laws, Regulations and Practices Subcommittee (2008). “Report on Insurance Laws, Regulations, and Practices in IAIS Member Jurisdictions.” International Association of Insurance Supervisors. September.
http://www.iaisweb.org/_temp/Report_on_insurance_laws_regulation_and_practices_in_IAIS_member_jurisdictions_October_2008.pdf

This report deals with both risk assessment and management and the specific legal basis and supervisory framework for the regulation and supervision of insurance groups and financial conglomerates, while highlighting the consensus and differences of the specific regulatory requirements. Furthermore, the report analyzes the organization of co-operation and of responsibilities between countries that have insurance groups or financial conglomerates having subsidiaries in other countries, in order to look for a possible approach for an appropriate basis for information exchange and for the line-up of the supervisory competence.

InsuranceNewsNet, Inc. (2008). "Optional Federal Charter Debate Likely to Continue Into the Next Congressional Session." June 20.

http://www.insurancenewsnet.com/article.asp?a=top_news&id=95494

Some are hopeful that Congress will decide on some reform measures affecting the insurance industry by the end of 2008, but unfortunately the optional federal charter (OFC) is unlikely to be one of the resolved issues. According to observers, even the OFC's strongest allies say the remaining months of the season do not give enough time to iron out the kinks and complexities of the OFC. In fact, if the hearing on the matter conducted in April 2008 before a House subcommittee is any indication, the proposed legislation is set to go through a prolonged debate from within the industry itself.

Klein, R.W. (2001). "Insurance Regulation: Principles and Institutions." Georgia State University Department of Risk Management and Insurance. January 19.

http://www.rmi.gsu.edu/insurance_regulation/rel_papers/Insurance_Regulation.pdf

Briefly summarizing alternative theories of regulation, this study also outlines the principles of insurance regulation in addressing market failures and protecting consumers. Klein reviews the historical origins and development of state insurance regulation, outlines the role and authority of state insurance commissioners, and discusses the resources of state insurance departments. Further, the paper explains the role of the National Association of Insurance Commissioners in coordinating and serving state insurance regulators and describes primary policies and activities in the areas of financial and market regulation. It concludes by discussing the potential effects of regulation on insurance markets.

Klein, R.W. (2000). "An Overview of the Insurance Industry." Georgia State University Department of Risk Management and Insurance. September 22.

http://www.rmi.gsu.edu/insurance_regulation/rel_papers/Overview_Industry.pdf

This paper outlines the structure and performance of the insurance industry and its most important segments and establishes an historical context for the development of the insurance industry and insights into its future evolution. The author illustrates the use of standard economic indicators of the structure and performance of insurance markets and explains the relative roles of traditional and alternative insurance markets. Finally, this study describes the key characteristics of the most important property-liability, life-annuity, and health insurance markets.

Klein, R. W. (2008). "An Overview of the Insurance Industry and Its Regulation." American Enterprise Institute Conference on The Future of Insurance Regulation, July 9.

http://www.rmi.gsu.edu/insurance_regulation/rel_papers/Klein_RegOverview_6-12-08.pdf

This paper provides a context for the discussion of reforming the framework of insurance regulation and its policies in the U.S. In the last two decades, a significant segment of the industry has come to favor federal regulation over the current state-based system because of the spreading geographic scope of insurance markets and a growing disenchantment with the perceived inefficiencies of a state-based system and its policies. At the same time, the states and other industry segments strongly oppose federal regulation, because the states contend that they have taken major steps to harmonize and streamline their regulatory requirements and that federal regulation (optional or mandatory) would not be in the best interest of consumers. This paper examines the current system for insurance regulation and recent state initiatives that are important in considering the need for and implications of alternative frameworks. Finally, an array of proposed or potential institutional structures for insurance regulation is outlined to identify the options available to policymakers.

Klein, R. W. (2006). "Perspectives on Insurance Regulation: Statement to the Senate Committee on Banking, Housing and Urban Affairs." July 18.
<http://banking.senate.gov/public/files/klein.pdf>

The specific reforms proposed reflect four basic themes or characteristics:

1. the elimination of regulation where it is not needed;
2. uniform, appropriate and efficient regulation where it is needed to the extent uniformity is possible given differences in state laws that cannot be changed;
3. singular institutions and processes for insurer filings and applications that would be approved for all states; and
4. full "rationalization" and coordination of all state enforcement and compliance activities.

Klein, R. W. and S. Wang (2007). "Catastrophe Risk Financing in the U.S. and the E.U.: A Comparative Analysis of Alternative Regulatory Approaches." Georgia State University Department of Risk Management and Insurance. October 28.
http://www.rmi.gsu.edu/insurance_regulation/rel_papers/KleinWang_Regulation_11-19-07.pdf

The regulation of insurance companies in the United States (U.S.) and the European Union (E.U.) continues to evolve in response to market forces and the changing nature of risk but with somewhat different philosophies and at different rates. This paper examines and compares regulatory and other government policies in the U.S. and the E.U. generally and their approaches to the financing of catastrophe risk specifically. It is important to understand the fundamental differences between the two systems to gain insights into their disparate treatment of catastrophe risk financing. The study offers recommendations on how U.S.

policies could be significantly improved as well as comment on issues facing the E.U.

Kohli, S. (2006). "Pricing Death: Analyzing the Secondary Market for Life Insurance Policies and its Regulatory Environment" April 22.
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=898382#PaperDownload

This article analyzes the recent increase in secondary market transactions for life insurance policies. It discusses the life settlement transaction and the emergence of the market in light of its troublesome history and analyzes its future potential given demographic trends in the United States. The study discusses the regulatory landscape of the life settlement industry, analyzing model statutes developed by the National Association of Insurance Commissioners (NAIC) and the National Conference of Insurance Legislators (NCOIL). Finally, it addresses certain deficiencies in these model statutes and recommends certain actions to help ensure the proper growth of the secondary market for life insurance.

Kowalski, A.E., W. J. Congdon, and M. H. Showalter (2008). "State Health Insurance Regulations and the Price of High-Deductible Policies." *Forum for Health Economics and Policy* 11.2: 1-26. <http://www.bepress.com/fhep/11/2/8/> (Requires free registration to download.)

This study examines the impact of state health insurance regulations on the price of high deductible family and individual policies in the nongroup market. The authors use a unique and rich data set on actual insurance policies sold through a large Internet health insurance distributor to examine the impact of various regulations on policy prices, controlling for policy characteristics, demographic characteristics of the purchasers, and state-level demographics. Congdon *et al* also use data from a single major insurance firm that provided offer prices for a family policy from a set of randomly selected zip codes. Both datasets suggest a strong statistical relationship between regulation and insurance prices.

Kwon, W. J. (2008). "Cross-accountability in Insurance Regulation." Networks Financial Institute *Policy Brief* 2008-PB-01. February.
http://www.networksfinancialinstitute.org/Lists/Publication%20Library/Attachments/106/2008-PB-01_Kwon.pdf

Regardless of the form of insurance regulation – state or national regulation or optional federal chartering – the insurance industry must be subject to close and effective regulation/supervision. This paper discusses the importance of insurance regulation from a theoretical perspective by examining the objectives stipulated in the insurance acts and regulations of selected jurisdictions. The author concludes that the regulator, the insurance company (and the intermediary) and the consumer need to recognize the importance of cross-accountability to each other for the development of sound insurance market.

Kwon, W. J. (2007). "Uniformity and Efficiency in Insurance Regulation." Networks Financial Institute *Policy Brief* 2007-PB-02. March.
http://www.networksfinancialinstitute.org/Lists/Publication%20Library/Attachments/16/2007-PB-02_Kwon.pdf

The debate over the choice of insurance regulatory authority in the U.S. not only exhibits the diversity of political and economic interests of various groups (federal and state governments, the NAIC, insurance companies and associations, policyholders and the general public) but also reflects the need of all parties of interest to align U.S. regulation with the changes in the financial services market and to preserve competitiveness of U.S. insurance companies in the domestic and foreign markets. This study summarizes the general directions of regulatory reforms internationally, reexamines the political history of insurance regulation in the U.S. to identify the motives behind each call for reform, and evaluates the current state-based approaches in comparison to proposed alternatives.

Lehmann, E. (2008). "Regulators seek climate-related information from insurers." ClimateWire. June 6.

Insurers might have to reveal their internal efforts to confront climate change under a pointed plan by regulators meant to prompt the huge industry to operate greener and brace for potentially intensifying damages in a warming world.

Lehrer, E. (2008). "Property and Casualty Insurance Report Card: A Heartland Institute State-by-State Analysis of Regulatory Burden." Competitive Enterprise Institute. March 14. http://cei.org/cei_files/fm/active/0/22907.pdf

Unfortunately, the way insurance is regulated in the U.S. distorts insurance products, raises their price, and limits their availability. The Heartland Institute and Competitive Enterprise Institute embarked on this project in an effort to draw attention to the things that make some states good places for insurers and consumers and other states bad places for them. This report card focuses on homeowners and automobile insurance. Rankings focus on two key questions: 1) How free are consumers to decide what insurance products will meet their needs? 2) How free are insurers to provide products that meet consumers' real or perceived needs?

Lehrer, E. and M. Minton (2008). "Optional Federal Charter for Insurers: Frequently Asked Questions, Version 2.0." Competitive Enterprise Institute. June 18.
http://cei.org/cei_files/fm/active/0/Eli%20Lehrer%20and%20Michelle%20Minton%20-%20OFC%20FAQ%20Update-FINAL_WEB.pdf

One of the greatest challenges facing America's insurers is the irrationally divided nature of regulation. The National Insurance Act (H.R. 3200 and S. 40) seeks to create a new federal insurance regulator via an Optional Federal Charter (OFC), which would let insurers choose to organize under either federal or state law. The

addition of an *optional* federal regulator to the nation's regulatory firmament would create a degree of regulatory competition between federal and state regulators and thereby improve overall market freedom. The proposal before Congress would set up new national mechanisms to protect consumers against insurance fraud and to ensure federally chartered insurers' solvency, which would work similarly to existing state-level bodies. Neither the House nor the Senate version of the bill contains any mechanism to let the federal government set rates.

Litan, R. E. and P. O'Connor (2008). "The Consumer Benefits from an OFC Charter: The Case of Auto Insurance." American Enterprise Institute Conference on The Future of Insurance Regulation, July 9.
http://www.rmi.gsu.edu/insurance_regulation/rel_papers/LitanOConnor_ConsumerBenefits.pdf

Most states insurance commissions play a major role in dictating the premiums that auto insurers charge, and a few state insurance commissions actively set rates. The fear that unregulated auto insurance rates would lead consumers in some states to pay more for this insurance than they do now is one of the reasons why some in Congress may be reluctant to include auto insurance, and perhaps personal lines more broadly, in any OFC legislation. The authors concentrate on what the evidence suggests would be the most likely impact of enabling federally-chartered auto insurers to charge rates for auto insurance determined by market competition. The clear implication for federal policy makers who may be considering OFC legislation from all of this evidence is that there is no basis for fearing that market competition in lieu of state rate regulation would harm consumers.

Lorent, B. (2008). "Risks and Regulation of Insurance Companies: Is Solvency II The Right Answer?" Université Libre de Bruxelles, Solvay Business School, Centre Emile Bernheim Working Papers 08-007.
<http://www.solvay.edu/EN/Research/Bernheim/documents/wp08007.pdf>

The role of the insurance sector has grown in importance. While there is a plethora of academic literature on the needs for a banking regulation, literature on insurance regulation is scarce and mainly focused on asymmetry issues. In this paper, Lorent describes the reasons for an insurance regulation. Recent developments faced by insurers modified the risks encountered by the sector, especially liquidity risk and systemic risk. This discussion outlines the specificities of the new framework for the regulation of European insurance undertakings, Solvency II, as it is currently discussed to provide an appropriate response to the changing needs of insurance regulation. The author concludes that Solvency II answers well to the developing insurance sector. However, caution is warranted for some areas such as evaluation of embedded options and guarantees, risk transfer and financial conglomerates.

Ludwig, E., et al (2008). *The Proposed Office of National Insurance: Organization, Functions, Size and Cost*. Promontory Financial Group, LLC. September 10. <http://promontory.com/assets/0/78/110/112/d3a1a1f8-90cc-4e56-aafd-69a4d557bd10.pdf>

A proposed national insurance regulatory office would give the federal government a window into the insurance business and allow it to identify and respond to emerging issues more readily than state insurance departments. Moreover, a national insurance regulatory office would give Congress the leverage it presently lacks to force action to address new problems. Promontory Financial Group reported these findings in this study funded by the American Council of Life Insurers (ACLI), American Insurance Association (AIA) and the Financial Services Roundtable (FSR). The purpose was to analyze the structure, cost and operations of a federal insurance regulatory office modeled on the Office of National Insurance legislation (S. 40, H.R. 3200) that was considered in the 110th Congress.

McKinsey & Company (2007). *Sustaining New York's and the US' Global Financial Services Leadership*. Prepared at the request of Mayor Michael Bloomberg and Senator Charles Schumer. January 22. http://www.senate.gov/~schumer/SchumerWebsite/pressroom/special_reports/2007/NY_REPORT%20_FINAL.pdf

This report provides detailed analyses of market conditions here and abroad, informed by input from financial services industry leaders, consumer groups, and other stakeholders. The findings are quite clear: First, the regulatory framework is a thicket of complicated rules, rather than a streamlined set of commonly understood principles. The time has come not only to re-examine implementation of Sarbanes-Oxley, but also to undertake broader reforms, using a principles based approach to eliminate duplication and inefficiencies in our regulatory system. Second, the legal environments in other nations far more effectively discourage frivolous litigation. To address this, policymakers must consider legal reforms that will reduce spurious and meritless litigation and eliminate the perception of arbitrary justice. Third, a highly skilled workforce is essential for the U.S. to remain dominant in financial services. The United States must ensure that talented people are able to move to the U.S. to pursue education and employment.

Monahan, A. (2008). "Health Insurance Risk Pooling and Social Solidarity: A Response to Professor David Hyman." *University of Missouri-Columbia School of Law Legal Studies Research Paper Series Research Paper No. 2008-15*. http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1124947#PaperDownload

Social solidarity with respect to health care is expressed, in part, through relatively healthy individuals paying higher prices for health insurance in order to subsidize the health insurance of the relatively less healthy. However, given ever-

rising health insurance prices, there is now significant interest in lessening the extent to which health care risks are shared in our society. This comment seeks to respond primarily to the regulatory federalism proposal put forward by Professor David Hyman and argues that it will unnecessarily harm certain risk-pooling functions of health insurance and therefore undermine social solidarity.

Nason, D. G. (2006). "Remarks before the National Organization of Life and Health Insurance Guaranty Associations." U.S. Department of the Treasury. August 3. <http://www.treas.gov/press/releases/hp46.htm>

Remarks cover Treasury positions and insights about the state-based guaranty system and its many merits and benefits. The remarks also share Treasury's thinking about modernization of the insurance regulatory system and about terrorism insurance.

National Association of Insurance Commissioners (2003). "'Interstate Insurance Product Regulation Compact.'" Model Regulation Service. July. http://www.insurancecompact.org/documents/compact_statute.pdf

The purposes of this Compact are, through means of joint and cooperative action among the Compacting States:

1. To promote and protect the interest of consumers of individual and group annuity, life insurance, disability income and long-term care insurance products;
2. To develop uniform standards for insurance products covered under the Compact;
3. To establish a central clearinghouse to receive and provide prompt review of insurance products covered under the Compact and, in certain cases, advertisements related thereto, submitted by insurers authorized to do business in one or more Compacting States;
4. To give appropriate regulatory approval to those product filings and advertisements satisfying the applicable uniform standard;
5. To improve coordination of regulatory resources and expertise between state insurance departments regarding the setting of uniform standards and review of insurance products covered under the Compact;
6. To create the Interstate Insurance Product Regulation Commission; and
7. To perform these and such other related functions as may be consistent with the state regulation of the business of insurance.

National Association of Professional Insurance Agents (2008). "PIA's Roadmap to State Regulatory Modernization." *PIA Connection*. May. <http://www.pianet.com/doc/Connection/PIAConnMay08.pdf>

PIA opposes federal regulation of insurance and supports a modernized state-based insurance regulatory system. PIA members have set as their goal devising a real, working solution to bring about a modernized state insurance oversight

system. Such a modernized state system will best serve PIA's Main Street insurance agencies and their agents. This article presents PIA's plan for state insurance regulatory modernization, the first step being completion of the modernized producer licensing system.

National Conference of Insurance Guaranty Funds (NCIGF) and National Organization of Life & Health Guaranty Associations (NOLHGA) (2007). "Re: Treasury Review of Regulatory Structure Associated with Financial Institutions: Request for Comments (TREAS-DO-2007-0018)." November 21.
<http://beta.ncigf.org/Treascomments.pdf>

Given the current guaranty fund system's significant experience, operating efficiency and credibility, it is well positioned to protect the nation's insurance consumers from future insolvencies of life and health and property/casualty insurers, regardless of whether those insurers may be regulated under a federal system or by the states. Although taking no position on the merits of state or federal regulation, NCIGF and NOLHGA responded to the request to explain the role of the state guaranty funds.

National Council on Compensation Insurance (2007). "Federal Insurance Regulation As Viewed by Two Experts."
https://www.ncci.com/Documents/Issues_Rpt_2007_Federal_Regulation.pdf

The debate on increased federal regulation of the insurance industry has raged across the industry itself for several years, in both state capitols and in Washington, D.C. Two influential and outspoken organizations involved in this debate present opposing opinions in this report. Representing the National Association of Mutual Insurance Companies in their opposition to an optional federal charter is Robert Detlefsen, Vice President of Public Policy. Former Montana Governor Marc Racicot, President, American Insurance Association, presents their case in support of optional federal charter legislation.

New, M. J. (2006). "The Effect of State Regulations on Health Insurance Premiums: A Revised Analysis." The Heritage Foundation. July 25.
<http://www.heritage.org/Research/HealthCare/cda06-04.cfm>

Many health policy analysts argue for greater government intervention in health care as a way to cover a larger percentage of Americans. One commonly proposed solution is "single payer" plans, in which the government would directly pay for or subsidize various health services. Another proposal is "pay or play" plans, in which employers are required either to provide a specified level of health insurance for their employees or to pay a tax that is earmarked for providing coverage for the uninsured. Often overlooked, however, is the fact that government policy, particularly excessive regulatory intervention, may price many Americans out of coverage and thus contribute to the high numbers of uninsured.

Parente, S. T., R. Feldman, J. Abraham and Y. Xu (2008). “Consumer Response to a National Marketplace for Individual Insurance.” Carlson School of Management, University of Minnesota. June 28.

http://energycommerce.house.gov/cmte_mtgs/110-he-hrg.091808.HealthReform.Parente.pdf

Federal lawmakers are interested in changing the law that prohibits non-group/individual health insurance from being sold across state lines. Advocates of this reform argue that state-level mandates for providers, benefits, and coverage, as well as other types of regulations (e.g. guaranteed issue, community rating, and any willing provider status) distort prices and that permitting national competition for such insurance has the potential to increase demand for individual health insurance policies. The objective of this analysis is to simulate the difference between national and state-specific individual insurance markets on take-up of individual health insurance. Though the analysis focuses on the individual insurance market, results are presented for both the individual and group markets because the effects a national marketplace for insurance will also affect the small employer group market as well.

Pottier, S. W. (2007). “State Regulation of Life Insurers: Implications for Economic Efficiency and Financial Strength.” American Council of Life Insurers. May 30.

<http://www.acli.com/NR/rdonlyres/3A7453E3-FDF9-44DC-9A5B-66A41C949F97/9195/PottierPackage1.pdf>

This study is based on an analysis of 284 life insurance single- and multiple-jurisdictional entities in the U.S. holding combined assets of \$3.8 trillion; it finds that a life insurer’s cost efficiency—which is a measurement of an insurer’s success in minimizing costs—declines significantly as the number of states in which an insurer is licensed or domiciled increases. While most life insurers are able to recoup the additional costs of multiple regulation, some companies are not profit-efficient. For these insurers, a single regulator system could improve their financial strength ratings.

Quarles, R. K. (2006). “Perspectives on Insurance Regulation: Testimony of the Under Secretary for Domestic Finance, U.S. Department of the Treasury, before the Senate Committee on Banking, Housing and Urban Affairs.” July 18.

http://banking.senate.gov/public_files/ACF5E1F.pdf

While the multiplicity of state regulators of insurance can provide certain benefits in the form of local expertise and control, it does raise three main categories of issues that deserve further consideration:

- Potential inefficiency, resulting both from the substance of regulation (especially price and form control) but also from its structure (the inevitable duplication and cost associated with multiple non-uniform regulatory regimes);
- International impediments, both questions of comity (facilitating international firms’ operations in the U.S., which benefits U.S. consumers) and

competitiveness (facilitating U.S. firms' operations abroad, which provides growth opportunities for U.S. industry and helps diversify their risk exposures);

- Systemic “blind spots,” the inability of the official sector to understand and respond to the insurance sector’s evolving contribution to risks affecting the financial system as a whole.

Regan, L., S. Tennyson and M. A. Weiss (2005). “The Incentive Effects of Automobile Insurance Rate Regulation on Accident Frequency and Loss Costs: An Empirical Analysis.” World Risk and Insurance Economics Congress.
<http://www.wriec.org/2005%20WRIEC%20Proceedings.pdf>

The usual stated goals of rate regulation are to assure that rates are adequate to make insurance readily available in the market, but not so high that insurance is unaffordable to drivers. However, regulatory efforts to achieve affordability may have adverse effects on driver incentives and automobile accident loss cost, and this is largely ignored in the regulatory process. This paper investigates whether distortion in incentives from rate regulation actually leads to higher accident frequency and ultimately to higher loss costs and empirically investigates the effect of these distortions on accident frequency and loss costs using panel data consisting of annual state-level data over the time period 1980-1998.

Regan, L. (2007). *The Optional Federal Charter: Implications for Life Insurance Producers*. American Council of Life Insurers. September 10.
http://www.acli.com/NR/rdonlyres/EF95BEF6-506D-4D2B-B867-EADC09B42565/10737/OFC_ReganStudyFinal090409.pdf

ACLI-commissioned study from Laureen Regan that finds life insurance producers could save hundreds of millions of dollars annually in licensing fees if Congress enacts legislation creating an optional federal charter.

Schacht, J. W., B. W. Foudree, and J. F. Zimmerman (2007). *A Study on State Authority: Making a Case for Proper Insurance Oversight*. Insurance Legislators Foundation. November. <http://www.ncoil.org/policy/Docs/2007/ILFStudy.pdf>

The purpose of the *Study on State Authority* is to provide an introduction to the subject in two specific areas: (1) the role of the National Association of Insurance Commissioners and (2) recent enforcement action by state attorneys general. The Study provides a constructive analysis of the components of state regulation — the legislative, executive, and judicial branches, as well as other state offices, such as the state attorney general — that presently interact and impact the regulation of insurance markets in the states.

Schmalensee, R. (2006). "New Risks, New Products, and New Regulations: Insurance for the 21st Century." November.
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=942066#PaperDownload

This Barbon Institute study considers some of the key issues and problems facing the insurance industry at the start of the 21st century, including terrorism risk, natural disasters, insurance accounting issues, and problems with the current regulatory structure. Additionally, it outlines important steps that insurers and regulators can take to address and alleviate these problems.

- Scott, H. (2008). "Optional Federal Chartering of Insurance: Design of a Regulatory Structure." The Searle Center on Law, Regulation, and Economic Growth at Northwestern University School of Law Research Symposium on Insurance Markets and Regulation, April 14-15.
http://www.law.northwestern.edu/searlecenter/papers/Scott_OFC-final.pdf
An earlier version of this paper was published as Networks Financial Institute *Policy Brief* 2007-PB-04, March 2007.
http://www.networksfinancialinstitute.org/Lists/Publication%20Library/Attachments/14/2007-PB-04_Scott.pdf.

Since the early nineteenth century, states have preempted federal authority (reverse preemption) in the regulation of the U.S. insurance industry. In contrast to other financial services (i.e., securities and banking), Congress has not sought to exercise either concurrent or preemptive authority over insurers. This paper considers the National Insurance Act of 2007, proposed by Senators Sununu and Johnson, and the issues raised by the need to design an appropriate regulatory structure for OFC. Ultimately, the design of a regulatory structure must turn on the objectives of federal insurance regulation and the lines of insurance to be regulated.

- Scott, H. and M. W. Grace. "Optional Federal Chartering of Insurance: Rationale and Design of a Regulatory Structure." American Enterprise Institute Conference on The Future of Insurance Regulation, July 9.
http://www.rmi.gsu.edu/insurance_regulation/rel_papers/Grace-Scott_OFC_6-12-2008.pdf

This paper presents the arguments for abandoning the status quo and moving towards an alternative approach to regulation based on an optional federal charter. Further, it adds to the discussion by describing what additional issues need to be addressed if the U.S. adopts an optional federal charter. While the merits of OFC have been much debated, comparatively little consideration has been given to the matter of how such a system should function if enacted. This paper considers the proposal by Senators Sununu and Johnson, and the issues raised by the need to design an appropriate regulatory structure for OFC. Ultimately, the design of a regulatory structure must turn on the objectives of federal insurance regulation and the lines of insurance to be regulated.

- Shapo, N. (2009). "Financial Oversight Failure Highlights Effectiveness of Insurance Regulation." National Association of Mutual Insurance Companies. January 8.
<http://www.namic.org/pdf/090108ShapoFinOversight.pdf>

This report highlights structural and behavioral differences between the property/casualty insurance industry and other types of financial institutions, and identifies specific factors that led to the economic turmoil. The report notes that credit default swaps, which most experts believe played a major role in fomenting the crisis, have been mischaracterized as “insurance” by many. This has led some to conclude that insurance companies are inadequately regulated. The report argues that, in fact, credit default swaps are not an insurance product and have nothing to do with the business of insurance. The report finds no evidence that property/casualty insurers contributed to the financial crisis, and concludes that p/c insurance companies and their policyholders have benefited from a combination of prudent management and a robust system of state-based solvency regulation. While urging Congress to avoid imposing costly, unnecessary federal regulation on the insurance industry, the report says creating a federal Office of Insurance Information to bolster the federal government’s institutional knowledge of insurance markets would be appropriate.

Sutter, D. (2007). “Ensuring Disaster: State Insurance Regulation, Coastal Development, and Hurricanes.” Mercatus Center, George Mason University. August 24.
[http://www.mercatus.org/uploadedFiles/Mercatus/Publications/20070912_ensuring_disaster\(1\).pdf](http://www.mercatus.org/uploadedFiles/Mercatus/Publications/20070912_ensuring_disaster(1).pdf)

Natural disasters are called "Acts of God," but the severity of their impact depends upon many factors, including state insurance regulations. This policy comment examines how state insurance regulation affects societal vulnerability to hurricanes. States provide insurance for high-risk properties at below market rates primarily through insurance pools. Seven states, including Louisiana and Mississippi, have wind pools, with over 1.8 million policies and a total liability of over \$500 billion as of early 2007. Wind pools are financed, in part, through additional charges on other citizens' premiums throughout the state to cover excess losses from hurricanes. State guaranty funds, which ensure payment of claims of insolvent insurers, also subsidize high-risk properties.

Tatom, J. A. (2008). “Prompt Corrective Action Provisions: Are Insurance Companies and Investment Banks Next?” *ResearchBuzz* 4.5 (May).
<http://www.networksfinancialinstitute.org/Lists/Research%20Buzz/Attachments/27/May%20Buzz.pdf>

Federal regulatory provision of prompt corrective action standards for nationally chartered insurance companies is likely if the National Insurance Act creates a federal role in chartering and regulation of insurance companies. Not only will both efforts require new capital requirement standards, but some coordination with existing or new schemes for insurance of firms’ liabilities will be necessary. In addition new statutes or rules for closure, merger or liquidation will be necessary to minimize the exposure of insurance funds, whether federal or not, to failure of these institutions.

Tennyson, S. (2007). "Efficiency Consequences of Rate Regulation in Insurance Markets." Networks Financial Institute *Policy Brief* 2007-PB-03. March.
http://www.networksfinancialinstitute.org/Lists/Publication%20Library/Attachments/15/2007-PB-03_Tennyson.pdf

Despite the presence of many and diverse sellers of insurance in most markets, insurance prices in some markets remain subject to regulation by state governments. This paper critically examines the arguments for rate regulation and discusses the consequences of this regulation for the insurance marketplace. It examines the most prevalent justifications for rate regulation and argues that they are incorrect or incomplete. It then turns to the consequences of rate regulation for insurance market outcomes and concludes that insurance rate regulation entails high costs for society and for insurance consumers, and that alternative policies for meeting regulatory objectives should be considered.

Tennyson, S. (2008). "State Regulation and Consumer Protection in the Insurance Industry." Networks Financial Institute *Policy Brief* 2008-PB-03. February.
http://www.networksfinancialinstitute.org/Lists/Publication%20Library/Attachments/108/2008-PB-03_Tennyson.pdf

In the recent debate over the appropriate governmental level at which to regulate insurance markets, opponents of a new federal role often raise concerns about the adequacy of consumer protection if regulation is removed from the states. This paper analyzes the need for market conduct regulation in insurance markets, and the arguments for state versus federal provision of this type of regulation. The paper then examines the provision of consumer protection regulation by the states in light of proposals for an increased federal role in insurance regulation.

Tennyson, S. and M. Weiss (2008). "Rate Regulation, Uninsured Driving and the Cost of Automobile Accidents." The Searle Center on Law, Regulation, and Economic Growth at Northwestern University School of Law Research Symposium on Insurance Markets and Regulation, April 14-15.
http://www.law.northwestern.edu/searlecenter/papers/Tennyson-Weiss_final.pdf

This paper examines the relationship between automobile insurance rate regulation and insured loss costs and uninsured driving rates (1982-2003), using annual state-level data to examine (i) the extent to which uninsured driving rates are sensitive to the stringency of rate regulation, and (ii) whether rate regulation is associated with increases in loss costs. We find that more stringent regulation of insurance rates is associated with lower rates of uninsured driving and higher rates of uninsured driving are associated with higher insurance costs. However, insurance costs are higher in more stringently regulated states. These findings suggest that regulatory rate suppression or cross-subsidies may encourage more universal automobile insurance coverage as intended, but may also produce other incentive distortions that lead to higher insurance costs.

U.S. Department of the Treasury (2008). *Department of the Treasury Blueprint for a Modernized Financial Regulatory Structure*. March 31.
<http://www.treas.gov/press/releases/reports/Blueprint.pdf>

The U.S. Treasury Department's Blueprint for an improved financial regulatory structure strengthens consumer protections, improves tools for market stability and enhances financial innovation. Treasury's *Blueprint for a Modernized Financial Regulatory Structure* presents a series of short-, intermediate- and long-term recommendations for reform of the U.S. regulatory structure. The short-term recommendations include improvements to regulatory coordination and oversight that regulators can make quickly. Intermediate recommendations include eliminating the thrift charter, creating an optional federal charter for insurance and unifying oversight for futures and securities. The long-term recommendation is to create an entirely new regulatory structure using an objectives-based approach for optimal regulation.

U.S. House of Representatives, Committee on Financial Services (2008). "Hearing: Systemic Risk and the Financial Markets." July 10.
http://www.house.gov/apps/list/hearing/financialsvcs_dem/hr071008.shtml

Treasury Secretary Henry Paulson and Federal Reserve Board Chairman Ben Bernanke testified at this hearing on the policy implications of the transformation of domestic and international financial markets, with a primary focus on the rise of potential systemic risk associated with the dramatic growth in the share of assets held outside the commercial banking system, the complex arrangements that link firms that are regulated differently (or not at all) and the increasing amount of leverage. This hearing explores the adequacy of current oversight and regulatory tools, and the extent to which existing structures are adequate to respond to future problems. Specifically, the hearing examines the current state of the financial regulatory system, both in the United States and abroad; the need for enhanced capital and reserve requirements for financial firms; and the adequacy of current powers of the Federal Reserve and other regulatory agencies to protect the financial system and the taxpayers.

U.S. House of Representatives, Committee on Financial Services, Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises (2007). "Hearing: The Need for Insurance Regulatory Reform." October 3.
http://www.house.gov/apps/list/hearing/financialsvcs_dem/hr092607.shtml

Prepared testimony from The Honorable Walter Bell, Commissioner, Alabama Department of Insurance, President of the National Association of Insurance Commissioners; John Bykowski, President and Chief Executive Officer, SECURA Insurance; Christopher M. Condron, Chairman of the Board and Chief Executive Officer, AXA Equitable Life Insurance Company; Albert R. Counselman, President and Chief Executive Officer, RCM&D Inc.; William H. McCartney, Senior Vice President, Insurance Regulatory Policy, United Services

Automobile Association (USAA); and Alex Soto, CPCU, ARM, President, InSource Inc..

U.S. House of Representatives, Committee on Financial Services, Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises (2007). “Hearing: Additional Perspectives on the Need for Insurance Regulatory Reform.” October 30.
http://www.house.gov/apps/list/hearing/financialsvcs_dem/ht1030072.shtml

Prepared testimony from The Honorable Craig Eiland, Texas House of Representatives, testifying on behalf of the National Conference of Insurance Legislators; Alessandro Iuppa, Senior Vice President, Government & Industry Affairs, Zurich, testifying on behalf of the Financial Services Roundtable; J. Robert Hunter, Director of Insurance, Consumer Federation of America; Frank Nutter, President, Reinsurance Association of America; Scott Gilliam, Assistant Vice President & Government Relations Officer, The Cincinnati Insurance Companies; and John W. Felton, President, Tennessee Brokerage Agency, testifying on behalf of the National Association of Independent Life Brokerage Agencies.

U.S. House of Representatives, Committee on Financial Services, Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises (2008). “Hearing: Examining Proposals on Insurance Regulatory Reform.” April 16.
http://www.house.gov/apps/list/hearing/financialsvcs_dem/ht041608.shtml

Prepared testimony from The Honorable David G. Nason, Assistant Secretary for Financial Institutions, Department of the Treasury; Eric Dinallo, Superintendent, Department of Insurance, State of New York on behalf of the National Association of Insurance Commissioners; Lawrence H. Mirel, Partner, Wiley Rein LLP on behalf of the Self Insurance Institute of America; Alastair Shore, Senior Vice President and Chief Underwriter, CUNA Mutual Group on behalf of the American Council of Life Insurance and the American Insurance Association; Thomas J. Minkler, CIC, President, Clark-Mortenson Agency, Inc. on behalf of the Independent Insurance Agents and Brokers of America; Francis Arricale, Executive Director, Interstate Insurance Product Regulation Commission; and Donna Pile, CIC, CPIW, CPIA, Managing Partner, A. G. Perry Insurance Agency on behalf of the National Association of Professional Insurance Agents.

Vaughan, T. (2008a). “The Implications of Prompt Corrective Action for Insurance Firms.” Networks Financial Institute *Policy Brief* 2008-PB-02. February.
http://www.networksfinancialinstitute.org/Lists/Publication%20Library/Attachments/107/2008-PB-02_Vaughan.pdf

The National Insurance Act of 2007 requires the development of a system of Prompt Corrective Action (PCA) for federally chartered insurers. This paper discusses the issues associated with developing a system of PCA and makes

recommendations regarding its structure. The paper concludes that PCA requirements should be included in any Optional Federal Charter (OFC) legislation, and that NAIC RBC requirements provide a good initial structure and that other regulatory authority giving the Commissioner discretion to intervene beyond PCA is essential in any OFC system. Though the legislation should include a provision requiring review of costly insolvencies and transparency with respect to the results of that review and the costs of resolving insolvent insurers, S. 40 provides a clear objective for resolving insolvencies.

Vaughan, T. (2009). "The Implications of Solvency II for U.S. Insurance Regulation." Networks Financial Institute *Policy Brief* 2009-PB-03. February.
http://www.networksfinancialinstitute.org/Lists/Publication%20Library/Attachments/132/2009-PB-03_Vaughan.pdf

Much work has been done in recent years on the subject of insurance regulation and capital requirements, and the process of regulatory reform will continue. Given recent financial turmoil and the experience with banks, investment banks, and insurance companies, underlying assumptions that have driven supervisory reform in the various sectors are being questioned. It behooves insurance supervisors to take a step back, revisit the underlying assumptions, and assess what implications, if any, their conclusions have for future work. The use of internal models to establish regulatory capital requirements cannot and should not disappear. However, internal models must be used appropriately, with recognition of their significant limitations. The optimal structure of insurance supervision is likely to be a combination of a rules-based and a principles-based approach. That is, internal models should be an adjunct to a rules-based capital requirement that establishes a floor for regulatory capital. The current environment has also demonstrated the importance of other aspects of regulation. Capital regulation is a necessary, but not sufficient, requirement for effective financial regulation. On-site examinations, offsite analysis of financial performance and trends, and frequent interaction with the regulated entity are equally important. These are long-standing features of the U.S. insurance regulatory system. Finally, current developments have demonstrated that market discipline cannot be relied on as a substitute for regulation and supervision. The optimal regulatory structure is one that encourages supervisors to take action when it is appropriate, and a system that incorporates duplicative regulatory oversight may advance that objective.

Vaughan, T. (2008b). "It's Time for Treasury to Have a Role." *National Underwriter: Life & Health*. May 5.
<http://www.lifeandhealthinsurancenews.com/Issues/2008/17/Pages/It-s-Time-For-Treasury-To-Have-A-Role.aspx>

The release of the Treasury's *Blueprint for a Modernized Financial Regulatory Structure* has generated a significant amount of reaction from supporters and opponents of an optional federal charter. As expected, the blueprint supports the

creation of an OFC for insurance companies. Given the Treasury's role in financial regulation, this endorsement represents a major victory for OFC supporters. The Treasury's proposal to establish an Office of Insurance Oversight merits the consideration of the Congress.

Wallison, P. J. (2006a). "Competitive Equity: An Optional Federal Charter for Insurance Companies." *AEI Financial Services Outlook*. March 10.
http://www.aei.org/publications/pubID.25034/pub_detail.asp

Now that insurance companies are competing with banks and securities firms in offering products and services to financial services consumers in a nationwide market, the regulatory structure of the insurance industry has become an important element of the competitive playing field. Insurance companies must obtain approval from fifty-one state regulators in order to offer a product or service nationally and place insurance companies at a competitive disadvantage in the fast-moving financial services market. Although the National Association of Insurance Commissioners has been working for years to create a modernized and uniform state regulatory system, such a system has not yet been achieved and seems unlikely to be realized in the near future. Under these circumstances, an optional federal chartering system for insurance companies seems to be an idea whose time has come.

Wallison, P. J. (2008). "Convergence in Financial Service Markets: Likely Effects on Insurance Regulation." American Enterprise Institute Conference on The Future of Insurance Regulation, July 9.
http://www.rmi.gsu.edu/insurance_regulation/rel_papers/Wallison_FinancialConvergence.pdf

Convergence among the principal members of the financial services industry—banks, securities firms and insurance companies—is occurring through conglomeration into diversified financial services firms, but much more importantly through direct cross-industry competition in products and services. This paper describes the more significant areas of cross-industry product and service competition, and argues that this competition will be the most likely driver of regulatory restructuring for the financial services industry, including insurers, in the future.

Wallison, P. J. (2006b). "Groundhog Day: Reliving Deregulation Debates." *AEI Financial Services Outlook*. October 19.
http://www.aei.org/publications/pubID.25034/pub_detail.asp

When Congress begins to consider an optional federal charter for insurance companies next year, one of the most intense debates will surround the question of whether the federal chartering authority, or the charter itself, should preempt state rate regulation of personal lines such as auto or homeowners insurance. Rate deregulation has been successful in virtually every market sector in which it has

been tried--from securities brokerage to airlines and trucking--and has even been successful in the few states where insurance rates are lightly regulated or not regulated at all. Nevertheless, one can expect to hear familiar arguments for continued regulation, none of which are supported by empirical data or based on accepted economic theory.

Wallison, P. J. (2001). *Optional Federal Chartering and Regulation of Insurance Companies*. AEI Studies on Financial Market Deregulation. Washington, DC: American Enterprise Institute.
http://www.aei.org/books/bookID.184,filter.all/book_detail.asp

Almost since it began, the insurance industry has been regulated at the state level. Its members were wary of federal mandates and federal regulation that would restrict their mobility and impose higher costs. Periodically, Washington policymakers would propose federal intervention, but the states and the industry always successfully fended it off. However, in response to heightened competition from other financial services firms and the need to function efficiently in the U.S. and global economies, the larger insurance companies and various insurance industry groups have become keenly interested in the concept of federal chartering and regulation. This assembles the viewpoints of representatives across the spectrum of the insurance industry, and among the many stakeholders involved, to examine the pros and cons of the issue.

Warfel, W. J. (2007). "Insurance Regulation: An Evaluation of Reform Options." *CPCU eJournal* 60.7 (July): 1-11. http://www.cpcusociety.org/file_depot/0-10000000/0-10000/3267/conman/CPCUeJournalJuly07article.pdf
An earlier version of this article was published as "Insurance Regulatory Reform: An Evaluation of Options for Expanding the Role of the Federal Government." Networks Financial Institute Working Paper 2006-WP-11, November 2006.
http://www.networksfinancialinstitute.org/Lists/Publication%20Library/Attachments/64/2006-WP-11_Warfel.pdf

In this article, the author explains the current state-based insurance regulatory system. Key legal decisions shaping the current regulatory structure are identified and discussed. Advantages of the current regulatory structure, and perceived shortcomings of this structure, are considered. The proposed SMART Act and the National Insurance Act are evaluated in terms of whether these alternative approaches to insurance regulatory reform could potentially improve the current state-based insurance regulatory system.

Webel, B. (2003). "Insurance Regulation: Background and Issues." Congressional Research Service Issue Brief for Congress IB10106. September 29.
<http://digital.library.unt.edu/govdocs/crs/permalink/meta-crs-4650:1>

Given that insurance companies have long been regulated by the states, as financial services have converged in response to globalization and other market

factors, some insurers now claim that they find themselves at a competitive disadvantage because of the inefficiencies associated with being regulated by the states. As a result, many insurers selling such products are calling upon Congress to pass legislation reinstating the federal government's insurance regulatory role. This report discusses some potential legislative remedies proposed by the 107th and 108th Congresses.

Webel, B. and C. Cobb (2005). "Revising Insurance Regulation: Policy Considerations." Congressional Research Service Report for Congress RL32138. February 11. http://assets.opencrs.com/rpts/RL32138_20050211.pdf

This report discusses federal regulation of insurers — whether optional or mandatory — in the broader context of a complex product marketplace. To assist that discussion, it traces the evolving rationale for regulation generally, explains insurers' roles as risk managers and financial intermediaries, and reviews briefly important aspects of the major lines of insurance.

Wickelgreen, A. L. (2008). "A Simple Mechanism for Improving Insurance Regulation." The Searle Center on Law, Regulation, and Economic Growth at Northwestern University School of Law Research Symposium on Insurance Markets and Regulation, April 14-15. http://www.law.northwestern.edu/searlecenter/papers/Wickelgren_final.pdf

Many actions of insurance companies are subject to a simple regulatory approval or disapproval. If insurance companies have private information about the effects of their proposal, then the regulator can harness some of this private information if it requires a (possible substantial) fee for consideration of the proposal and promises to refund all or more than the entire fee back to the insurance company if the proposal is approved. In fact, if there is no limit on the size of the filing fee, then the regulator can induce the company to almost never file a proposal that reduces social welfare and therefore can almost always approve any proposal that is filed. If there is a limit on the size of the fee, then the use of refundable filing fees increases social welfare but does not achieve the first best.

Woodall, S. R., Jr. (2002). "Optional Federal Chartering for Insurers: Major Interest Groups." Congressional Research Service Report for Congress RS21172. March 18. <http://digital.library.unt.edu/govdocs/crs/permalink/meta-crs-2842:1>

Due to state regulation, the various insurance related interest groups have been largely state oriented, so there is limited familiarity on the national level with these insurance industry-related interest groups or how they differ in their positions on federal chartering legislation. This report identifies some of the major insurance groups and state-related organizations with an interest in federal chartering and regulation of the insurance industry.