




# Federal Insurance Regulation & The Current Economic Crisis

J. Stephen ("Stef") Zielezienski  
American Insurance Association



# Regulation in Time of Crisis (What's "OUT"... What's "IN")

OUT: Market-based Solutions  
IN: Government Intervention

OUT: Regulatory "Arbitrage"/Deregulation  
IN: Regulatory Mandates/Re-Regulation

OUT: "Market Efficiency"  
IN: Market Stability, Safety & Soundness, Systemic Risk

OUT: Free Market Competitiveness  
IN: Economic Populism + "Fairness" = Consumer Protection



# Global Pressures to Reform

- ✦ Financial Services Regulatory Convergence
- ✦ Uniform Regulatory Standards
  - ✦ IFRS
  - ✦ Solvency II
  - ✦ Corporate governance
  - ✦ Groupwide supervision
  - ✦ Market conduct
- ✦ Effect of Crisis on Pace of Modernization
- ✦ NAIC Response




# Federal vs. State Regulation

## ☀ Traditional Areas of State Insurance Regulation

- Financial solvency regulation
- Market conduct oversight
- Licensing
- Rate and form regulation

## ☀ Regulation under an Optional Federal Charter

- Federal oversight
  - Chartering of companies and producers
  - Financial solvency regulation
  - Market conduct oversight
  - Product regulation
- Continued state regulation
  - Broad preemption of state insurance supervision, except...
  - State premium taxes
  - Mandatory state residual markets
  - Auto & WC coverage mandates
  - WC administrative mechanisms
  - Provision of data to stat advisory organizations
- McCarran-Ferguson Act implications



# Problems with State Insurance Regulation

- ✱ Jurisdictional/constitutional limitations
- ✱ Misfocused, outdated regulatory approach
- ✱ Non-uniform, inconsistent standards
- ✱ Lack of single regulatory voice on national insurance matters
- ✱ Reactionary regulation and economic populism
- ✱ No authority to bind U.S. internationally



# Stages of Regulatory Reform

- ★ STAGE 1 – Economic “trriage” and assigning blame
  - Federal initiatives to stabilize economy, financial markets, and those “too big to fail”
  - Punishment of bad actors and imposition of conditions on access to government capital
- ★ STAGE 2 – Effective oversight of federal initiatives
- ★ STAGE 3 – Evaluating performance of regulatory system during crisis and identifying regulatory gaps/limitations
  - Systemic risk oversight
  - Functional financial services regulation
  - Rigidly-applied financial standards
  - Unregulated products and entities



# Realities & Dangers of Reg Modernization During Crisis

- ✦ Federal regulation may be mandatory, NOT optional for some
- ✦ Federal regulation may emphasize governments, NOT private markets
- ✦ Federal regulation could be duplicative and overlapping
- ✦ Federal regulation could be narrowly drawn to address capital or accounting standards
- ✦ Regulation may be bifurcated between state and federal agencies



# Making the Case for OFC: Part of the Long-Term Solution

- ✦ Consumer protection through strong financial and market regulation
- ✦ National scope of authority, including financial oversight that extends to ALL affiliates within holding company
- ✦ Uniform, consistent standards
- ✦ National regulatory voice
- ✦ Coordination with other functional U.S. and foreign regulators